



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION 4  
 ATLANTA FEDERAL CENTER  
 61 FORSYTH STREET  
 ATLANTA, GEORGIA 30303-8960

AUG 23 2012

Colonel Alan M. Dodd  
 District Engineer  
 Department of the Army  
 Jacksonville District Corps of Engineers  
 Attn: Krista Sabin  
 1520 Royal Palm Square Blvd, Suite 310  
 Fort Myers, Florida 33919

Subject: Eden Oak I, LLC and Eden Oak Port Sanibel, LLC; 2010-02965(IP-KDS)

Dear Colonel Dodd:

This letter is in response to permit application number 2010-02965(IP-KDS) submitted by Eden Oak I, LLC and Eden Oak Port Sanibel, LLC. The applicant proposes to impact 87.01 acres of mangrove wetlands and 4.48 acres of open tidal waters for the purpose of constructing a marina and residential development. The total site is 158.31 acres in size and consists of 132.97 acres of wetlands, 16.91 acres of open tidal waters, and 8.43 acres of uplands. The onsite wetlands consist of 110.94 acres of mangroves, 8.90 acres of mixed exotic forested, 6.92 acres of saltwater marsh, and 6.21 acres of mosquito ditches. The project is located on the east and west side of Shell Point Boulevard, 2 miles north of McGregor Boulevard, in Section 34, Township 45 South, Range 23 East, Lee County, Florida.

The U.S. Environmental Protection Agency, Region 4 has completed its review of this project from information contained in the public notice (PN) and a site visit conducted on May 17, 2011. This letter summarizes the EPA's position on the project based on the Clean Water Act (CWA) Section 404(b)(1) Guidelines, which prohibit avoidable or significant adverse impacts to the aquatic environment.

The proposed project will have a direct impact on 87.01 acres of tidal mangrove wetlands. Mangrove wetlands located within southwest Florida form a vital component of the estuarine and marine environment, providing a major organic detrital base to the aquatic food chains, significant habitat for arboreal, intertidal and subtidal organisms, nesting sites, cover and foraging grounds for birds, and habitat for reptiles and mammals. Mangroves provide protected nursery area for fishes, crustaceans, and shellfish. They are one of the most biologically productive ecosystems in the world. Mangroves also serve as storm buffers by functioning as wind breaks and through prop root baffling of wave action. Mangrove roots stabilize shorelines and fine substrates, reducing turbidity, and enhancing water clarity. Mangroves improve water quality and clarity by filtering upland runoff and trapping waterborne sediments and debris. However, the cumulative loss of this habitat has reduced overall water quality and fisheries production within the southwest Florida ecosystem. For these reasons, the EPA considers these mangrove wetlands to be aquatic resources of national importance (ARNI).

In order to fully review the proposed project, the EPA requests that the applicant provide information on alternative site locations that have been reviewed which would have less adverse impacts on the aquatic environment. The CWA Section 404(b)(1) Guidelines, 40 CFR § 230.10(a) states that no discharge of

dredge and/or fill material (into waters of the United States, including wetlands) shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic environment, provided the alternative does not have other significant adverse environmental consequences. This regulation further states that for non-water dependent projects, practicable alternatives that do not involve special aquatic sites are presumed to be available. Practicable alternatives are those that are "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purposes." Therefore, the EPA requests that the U.S. Army Corps of Engineers (Corps) have the applicant provide this office with the following information for each site examined:

- Presence, quantity and quality of wetlands
- County and/or city zoning
- Availability for purchase, and a determination of whether the proposed cost is reasonable
- The presence or absence of any federally listed plant or animal species and/or historical properties
- The presence or absence of high value uplands
- Transportation access

According to the Public Notice, project impacts were primarily restricted to the lower quality wetlands. The EPA requests that the applicant provide additional measures that can be taken to avoid and minimize onsite, tidal wetland impacts. According to the CWA Section 404(b)(1) Guidelines and February 6, 1990, Memorandum of Agreement between the Corps and the EPA in determining mitigation, an applicant must demonstrate avoidance and minimization of wetland impacts before compensatory mitigation can be considered. Specifically, no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem. Practicable alternatives include activities which do not involve the discharge of dredged or fill material into waters of the United States. We believe the applicant can avoid and minimize onsite wetland impacts by reducing the scope of the project, which will also reduce mitigation costs. In addition, please provide an aerial of the site with an overlay of proposed project.

In order to evaluate the proposed project, the EPA requests that the applicant provide a colored copy benthic survey of the site. The benthic survey should extend a radius of 50 feet around submerged lands of project site. The benthic survey should include a description of the protocol used to complete the survey, sampling dates, and a map that illustrates the density and location of each submerged aquatic vegetation (SAV) found at the site. The seagrass survey submitted for review should be conducted between the months of June and September to ensure the survey is conducted during the active growing season. The benthic survey is necessary for the EPA to determine if impacts to SAV may occur by the proposed project.

The PN states that the applicant proposes to offset project impacts by purchasing 47.18 forested and 6.95 herbaceous credits from Little Pine Island Mitigation Bank. Since avoidance and minimization have not been adequately demonstrated, it is premature for the EPA to consider any type of mitigation plan. In the event that onsite wetland impacts are reduced and avoidance and minimization are demonstrated in the future, the EPA requests that the applicant provide the following information regarding any proposed mitigation. This information is necessary in order to insure the proposed mitigation for impacts associated with the project are in compliance with the Federal Compensatory Mitigation Rule, dated April 2008.

- Detailed mitigation and maintenance plan
- The responsible party for the long-term management of the mitigation area
- Assurance for the long-term protection of the mitigation area (such as a perpetual conservation easement)
- Detailed performance standards to achieve mitigation success
- Detailed monitoring requirements
- Detailed long-term management plan
- Detailed adaptive management plan
- Documented financial assurance to insure the mitigation site is maintained in perpetuity
- Detailed description of the net benefit the proposed mitigation will provide to the environment

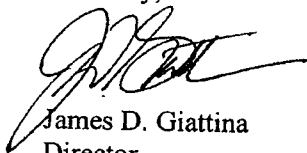
The EPA requests that the applicant provide Uniform Mitigation Assessment Method scores for the proposed impact and mitigation sites. Technical rationale for each score should also be included.

The EPA requests that the applicant provide a cumulative impact analysis for other potential projects which are similarly situated as that proposed. It is essential that we have a clear understanding on the potential direct, secondary, and cumulative environmental impacts these projects will have on our aquatic resources. This should include all tidally influenced land parcels privately owned within and adjacent to the Caloosahatchee River and San Carlos Bay.

In conclusion, the EPA believes that the permit for the project should not be approved as proposed, because it does not comply with the CWA Section 404(b)(1) Guidelines. We believe that the proposed project may have substantial and unacceptable adverse impacts to mangroves, which we consider to be ARNI. Therefore, in accordance with the procedural requirements outlined in the 1992 404(q) Memorandum of Agreement Part IV, 3(a) between our agencies, we are advising you that the proposed work may have substantial and unacceptable adverse impacts on ARNI.

Thank you for providing an opportunity for the EPA comment on this authorization. At this time, the EPA requests additional information to facilitate our evaluation of this project. We look forward to receiving more information from you. If you have any questions, please contact Ron Miedema at 400 North Congress Avenue, Suite 120, West Palm Beach, Florida 33401 or by telephone at 561-616-8741.

Sincerely,



James D. Giattina  
Director  
Water Protection Division

cc: Ms. Victoria Foster, FWS, Vero Beach, FL  
Ms. Anita Bain, SFWMD, West Palm Beach, FL  
Mr. Mark Sramek, NMFS, St. Petersburg, FL

# **EDEN OAK PRESERVE ALTERNATIVE SITES ANALYSIS**

Section 34, Township 45 South, Range 23 East  
Lee County, Florida

**April 17, 2014**

4 /

Prepared for

**Eden Oak Preserve  
1443 Hurontario St.  
Mississauga, Ontario L5G 3H5**

Prepared by

**W. Dexter Bender & Associates, Inc.  
4470 Camino Real Way, Suite 101  
Fort Myers, FL 33966  
(239) 334-3680**

and

**Mariner Properties Development, Inc.  
13041-2 McGregor Blvd.  
Fort Myers, FL 33919  
(239) 481-2011**

*Look at development on  
south side*



## **Introduction**

On July 1, 2008, Eden Oak Florida, LLC obtained title to the property known as Eden Oak Preserve subject to this pending application ("Property") through a Certificate of Title issued by the Lee County Circuit Court in a foreclosure action brought by Eden Oak Florida, LLC against the then owner and mortgagor of the Property, Shell Point Yacht Club Trust, a Florida Land Trust ("SPYCT"). SPYCT defaulted under a Mortgage Note ("Note") given to Eden Oak Florida which resulted in the foreclosure action filed by Eden Oak Florida, LLC to obtain the Property which secured payment under the Note and a Mortgage. Obtaining the Property through this foreclosure action was necessary to preserve Eden Oak Florida, LLC's ability to recover their capital (i.e. funds loaned to SPYCT) and the cost of that capital (i.e. the unpaid accrued interest due under the Note, cost of foreclosure procedure and the cost of their capital from the day of the foreclosure until the funds can be recovered) by either selling or improving the Property.

In September 2008, Eden Oak Florida, LLC transferred its interest in the Property to two related companies, Eden Oak Port Sanibel, LLC and Eden Oak I, LLC (formerly known as Eden Oak Shell Point, LLC), who are the applicants for the pending application ("Applicant").

Prior to foreclosing on the Property, SPYCT submitted the Property to the Lee County Conservation 20/20 Program for sale. In June 2007, Lee County Conservation 20/20 Land Acquisition and Stewardship Advisory Committee recommended that further consideration of the Property would be limited to the pristine mangrove islands, not the approximately 160 acres of disturbed wetlands presently subject to the pending application.

Additionally, a sale of the property for development to a third party without any governmental approvals for a project footprint and use (e.g., development area, residential density and marina) that would satisfy the increasing market demand for this product would not result in a reasonable recovery of capital for the Applicant. As such, the Applicant has proceeded to obtain the necessary Federal, State and local permits to develop the subject property.

This document contains the alternatives analysis required in 40 C.F.R. Section 230.10 ("Section 404(b)(1) Guidelines"). The Applicant is providing a brief review of the alternatives analysis, the Applicant's basic and overall project purposes, and the Overall Project Purpose established the Corps in the attached Public Notice dated August 7, 2012. The Applicant also is providing the basis for the conclusion that, according to the Section 404(b)(1) Guidelines, no practicable alternative exists to the Project site which would satisfy the overall project purpose that has less adverse environmental impact and was available and capable of being acquired and developed, taking into consideration costs, existing technology, and logistics.

## **I. Alternatives Analysis Requirement**

The Section 404(b)(1) Guidelines require the Applicant to conduct an alternatives analysis for the proposed discharge to "waters of the United States". According to the Section 404(b)(1) Guidelines, a discharge of dredged or fill material will be allowed if there is no "practicable alternative" to the proposed discharge. 40 C.F.R. § 230.10(a). For purposes of the Section

404(b)(1) Guidelines, a practicable alternative is one that has less adverse impact on the aquatic ecosystem and does not have other significant adverse environmental consequences. 40 C.F.R. § 230.10(a). These criteria require the Corps to consider adverse impacts to both the aquatic ecosystem and other ecosystems in determining whether a practicable alternative exists. 45 F.R. 85336, 85340.

#### A. Level of Review

The amount of information needed and the level of scrutiny required by the Guidelines is commensurate with the severity of the environmental impact. As the Section 404(b)(1) Guidelines specify:

Although all requirements in Section 230.10 must be met, the compliance evaluation procedures will vary to reflect the seriousness of the potential for adverse impacts on the aquatic ecosystems posed by specific dredged or fill material discharge activities.

40 C.F.R. § 230.10(a). The Corps has specified the level of review is determined by the functions of the aquatic resource and the nature of the proposed activity as well as the scope and costs of the project. Army Corps of Engineers Standard Operating Procedures for the Regulatory Program ("SOP") issued to the District Commands on April 8, 1998; *see also* Regulatory Guidance Letter 93-02: Guidance on Flexibility of the 404(b)(1) Guidelines and Mitigation Banking (August 23, 1993) ["RGL 93-02"]. The SOP provides that the compliance evaluation procedures under the Guidelines vary to reflect the seriousness of the potential for adverse impacts on the aquatic ecosystems.

A functional assessment of the "waters of the United States" where authorization is requested to discharge of dredged or fill material in order to construct the project was conducted using both the Little Pine Island Mitigation Bank Functional Assessment Methodology (LPIMBFAM) and the Unified Mitigation Assessment Methodology (UMAM). The average functional score (number of credits ÷ acres of impact) for the proposed discharge is 0.58 under LPIMBFAM and 0.57 under UMAM. The average functional score for the plan contained in the March 13, 2013 submittal to the COE (which included revisions requested by both COE and SFWMD staff as a result of their site inspections) was 0.56 under LPIMBFAM and 0.55 under UMAM. Both functional assessment methodologies use a scale from 0.0 to 1.0, 0.0 representing no functional value, and 1.0 representing the highest functional value. Based on the functional assessments conducted in conjunction with the COE, the seriousness of the potential for adverse impacts on the aquatic ecosystems from the functional loss associated with the proposed discharge to waters of the United States associated with the Project is moderate.

#### B. Practicable Alternative

A "practicable alternative" is defined as an alternative site that is available and capable of being developed "after taking into consideration cost, existing technology, and logistics in light of overall project purposes." 40 C.F.R. Section 230.10(a)(2). Accordingly, the applicant is only required to evaluate alternatives that are reasonable in terms of the overall scope and costs of the proposed project. RGL 93-02 § 3(b). Alternatives considered for purposes of the alternatives analysis may include sites not owned by the Applicant if these sites: (1) satisfy the practicable alternative definition; and (2) "... could reasonably be obtained, utilized,

expanded or managed in order to fulfill the basic purpose of the proposed activity..." 40 C.F.R. Section 230.10(a)(2).

The Applicant need not consider any available alternative. To be considered a practicable alternative, an alternative site must have an identifiable or discernible difference in impacts to the aquatic environment and not have other significant adverse environmental consequences. 40 C.F.R. Section 230.10. According to the Section 404(b)(1) Guidelines, "... where there is no significant or easily identifiable difference in impact, the alternative need not be considered to have 'less adverse' impact, ...". Preamble to Final Rule, *Guidelines for Specification of Disposal Sites for Dredged or Fill Material*, published in the Federal Register at 45 F.R. 85336, 85339 (December 24, ["Preamble"] at 85339-85340. Initial focus in the alternatives analysis on impacts to the aquatic ecosystem may limit (or in some instances, eliminate altogether) the number of alternatives that have to be evaluated for practicability (an inquiry that is difficult, time consuming, and costly for applicants). SOP. Therefore, alternatives without the requisite difference in impact to the aquatic environment can be eliminated from further consideration in the alternatives analysis.

The alternatives analysis also includes consideration of impacts on the non-aquatic environment. The Section 404(b)(1) Guidelines define a practicable alternative as one that "... would have less adverse impact on the aquatic ecosystem, *so long as the alternative does not have other significant adverse environmental consequences.*" 40 C.F.R. Section 230.10(a) [*emphasis added*]. This criterion requires the Corps to take into account evidence of adverse impacts to other ecosystems – not just the aquatic ecosystem – in determining whether a practicable alternative to the proposed project site exists. 45 F.R. 85336, 85340.

In addition, cost analysis is an important consideration in the alternatives analysis. According to the Section 404(b)(1) Guidelines, an alternative is not practicable if it is "... unreasonably expensive to the applicant, ...". 45 F.R. 85336, 85343. The Corps has recognized the determination of what constitutes an unreasonable expense should generally consider whether the projected cost is substantially greater than the costs normally associated with the particular type of project. RGL 93-02 § 3(b). In addition, the Section 404(b)(1) Guidelines recognize an alternative generally "cannot be practicable to the applicant if it does not provide economically viable opportunities relative to the basic project purpose." Memorandum from Patrick J. Kelly, Director of Civil Works, to Commander, U.S. Army Corps of Engineers, Jacksonville district, Permit Elevation, Old Cutler Bay Associates (September 13, 1990), p. 8 [relating to Preamble discussion of consideration of cost in alternatives analysis (Preamble, 45 F.R. at 85343) pursuant to 40 C.F.R. Section 230.10. A particular applicant's financial standing is not the primary consideration for determining practicability; rather, the characteristics of the project and what constitutes a reasonable expense for these types of projects are most relevant to practicability determinations. RGL 93-02 § 3(b).

### C. Project Purpose

Proper definition of the project purpose is critical to evaluating both the project and its compliance with the Guidelines. Indeed, "[w]hether an alternative is 'practicable' often depends on how the project purpose is defined". Alliance for Legal Action v. United States Army Corps of Engineers, 314 F.Supp.2d 534, 548 (M.D.N.C. 2004). The "project purpose" in the context of the Section 404(b)(1) Guidelines is a two-step process involving definition of both the basic and overall project purposes.

The Basic Project Purpose is used to determine whether a proposed project is water dependent. A project is not considered water-dependent if it does not require access or proximity to or siting within the special aquatic site to fulfill the basic project purpose. 40 C.F.R. Section 230.10(a)(3). If a project is non-water dependent, alternatives that do not involve a discharge to special aquatic sites are presumed to be available. 40 C.F.R. Section 230.10(a)(3). The Applicant can rebut this presumption by a clear demonstration that such alternatives are not available. Id.

Greater definition of project purpose is required for the second step – analysis of practicable alternatives. For this step, the Applicant must describe the project with more specificity in light of the Applicant's needs and in the context of the desired project location and type ("Overall Project Purpose"). 40 C.F.R. Section 230.10(a)(2); SOP, Section 8. As the court in Alliance for Legal Action explained:

Once the Corps determines the water dependency of a project, it no longer considers the "basic project purpose" but analyzes practicable alternatives "... in light of overall project purposes..." 40 C.F.R. § 230.10(a)(2). Army Corps of Engineers Standard Operating Procedures provide that "[t]he overall project purpose is more specific to the applicant's project than the basic project purpose. . . . [T]he applicant's needs must be considered in the context of the desired geographic area of the development and the type of project being proposed.

Alliance for Legal Action, 314 F.Supp.2d at 548. The Overall Project Purpose must not be so specific that it precludes any reasonable possibility of other sites being potentially practicable to the applicant. Correspondence from Joseph W. Westphal, Assistant Secretary of the Army (Civil Works), dated January 19, 2001, responding to a Department of Interior Fish and Wildlife Service request under the Section 404(q) Memorandum of Agreement, p. 5 (Westphal Correspondence).

While defining the Overall Project Purpose is ultimately the Corps' responsibility, the Corps has recognized it must accept the basic project principles from the Applicant in establishing the Overall Project Purpose. Id. In addition, courts have emphasized that the Corps must take into account the Applicant's objectives and "is not entitled to reject the [Applicant's] purpose and substitute for it one it deems more appropriate." Alliance for Legal Action, 314 F.Supp.2d at 549; see also Florida Keys Citizens Coalition, Inc. v. United States Army Corps of Engineers, 374 F.Supp.2d 1116 (S.D.Fla. 2005); Greater Yellowstone Coalition v. Flowers, 359 F.3d 1257, 1270 (10 Cir. 2004); and Sylvester v. U.S. Army Corps of Engineers, 882 F.2d 407, 409 (9<sup>th</sup> Cir. 1989) ("in determining whether an alternative site is practicable, the [Army] Corps is not entitled to reject [the applicant's] genuine and legitimate conclusion that the type of golf course it wishes to construct is economically advantageous to its resort development").

Definition of the Overall Project Purpose should be carefully considered, as it is a fundamental component of the alternatives analysis under the Guidelines. Without a properly defined Overall Project Purpose, factors integral to the project analysis may be ignored, omitted or otherwise not given the emphasis necessary to render a proper permitting determination.

## **II. Basic Project Purpose**

The Applicant's Basic Project Purpose pursuant to the Section 404(b)(1) Guidelines is to construct a residential community and full service marina consistent with the requirements of state and local laws, rules and ordinances. Because portions of the Project are non-water dependant, a more detailed Overall Project Purpose is provided below.

## **III. Overall Project Purpose**

The Applicant's Overall Project Purpose is to provide a viable up-scale waterfront residential community with water-related amenities and marina with direct access to the lower Caloosahatchee River and Gulf of Mexico. The geographical extent of the Applicant's Overall Project Purpose is based in part on Applicant's understanding and experience of the market demand for this type of project and product in Southwest Florida, including such factors as water-front lots, multi-family demand, and boating proximity to the Gulf of Mexico. However, the Corps has determined that the Overall Project Purpose is to construct a residential development and marina with watercraft access to the Gulf of Mexico in Southwest Florida. The Corps' Overall Project Purpose expanded the geographic area to include the alternatives analysis in which alternative sites needed to be indentified and analyzed. The Applicant has prepared an analysis of its targeted market which provides several important components in achieving an economically viable project which will satisfy the Overall Project Purpose, including sales price and proximity to the Gulf of Mexico (e.g., maximum travel time by boat to the Gulf of Mexico of no more than 45 minutes).

## **IV. Project Need**

At the time of market entry, the Applicant determined that despite economic headwinds, a market demand existed for upscale single/multi-family residential waterfront housing designed for active lifestyle and independent seniors (+55) in the growing and aging population of Lee County, Florida. The market consisted of pre-retirement seniors and retired seniors seeking to maintain an active lifestyle in a waterfront community with convenient access to the Lower Caloosahatchee and the Gulf of Mexico, and affordable independent housing in proximity to urban facilities, health care, and transportation. The market area established by the Applicant was those areas in western Lee County which had direct access and are in reasonable proximity to the Gulf of Mexico, and the major transportation and healthcare infrastructure within Lee County. (Please also see Market Analysis for Eden Oak Preserve.)

## **V. Alternative Sites Analysis**

The following summarizes the process undertaken by the Applicant to identify alternative sites in the market area which would be both available and capable of being developed as a residential development and marina with watercraft access to the Gulf of Mexico consistent with the Overall Project Purpose, and to evaluate whether any one of the sites constitute a

practicable alternative as defined in 40 C.F.R. Section.230.10(a).

The Applicant evaluated completed or partially completed projects within a 45 minute travel time to the Gulf of Mexico. These projects included Tarpon Point Marina, St. Charles Harbor Club, Savona Bay (aka Caribbean Cove), and Siesta V which are similar to projects that would, to varying aspects, otherwise satisfy the Overall Project Purpose (e.g., public marina with mid-rise/high rise multi-family development, private marina with single family and low density multi-family residential, single family waterfront and water access via community dockage, and water front single family with individual single family docks and limited community dockage, respectively). These projects have been completed or partially completed over the past 20 years and are located with a 45 minute travel time to the Gulf of Mexico. Tarpon Point Marina and the St. Charles Harbor Club are nearly built-out. Savona Bay and Siesta V are fully permitted, actively under development, and only has limited capacity marina facilities. In addition, these projects are being developed to satisfy the growing demand for this type of project in Southwest Florida. The applicant screened out these completed or partially completed projects since they are not reasonably available to the Applicant and do not reasonably satisfy the Overall Project Purpose.

Since the Corps Overall Project Purpose included in the Public Notice referenced Southwest Florida, the Applicant evaluated several areas throughout Southwest Florida beyond the scope of the Alternative Sites Analysis dated March 2013 previously submitted to the Corps to determine whether there were other areas or sites which could reasonably satisfy the Overall Project Purpose. These areas included: 1) north and east further up the Caloosahatchee River, 2) along the Lee County and Charlotte County coastlines, 3) Pine Island area, 4) Collier County south to Naples and 5) southern Lee County from the Caloosahatchee River to the Collier County line.

1. North and East in the Caloosahatchee River: As noted in the Market Analysis, a primary component of satisfying the Overall Project Purpose was parcels of sufficient size to accommodate the residential activity and a marina that has boating access to the Gulf of Mexico of no more than 45 minutes. Property with waterfront access located on the north and south shores of the Caloosahatchee River east of the Midpoint Bridge would require greater than a 45 minute travel time to the Gulf of Mexico given the distance from the Gulf and state-imposed speed zones within the river. The Applicant screened out these sites since they could not meet a primary component to reasonably satisfy the Overall Project Purpose. Additionally, existing single family homes and homesites within the Cape Coral canal system and those single family homesites and multi-family properties on the Fort Myers side of the river (between the river and McGregor Blvd.) generally sell for less than the target market pricing for Eden Oak Preserve.
2. North Lee County and South Charlotte County Coastlines: The northern area of Lee County and southern area of Charlotte County (south of the Peace River) are generally considered to be part of Southwest Florida. There are existing developments with water access to the Gulf of Mexico that are located within this area. However, the travel times from these projects to the Gulf of Mexico are just short of 45 minutes. In addition, these projects include Punta Gorda Isles and Burnt Store Marina which are nearly built-out having been underway for the past 25 to 40

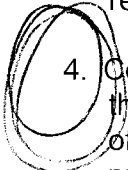
*more attention need to be looked at south.*

years. The available single family homesites and multi-family pad sites cannot be reasonably assembled to accumulate the minimum parcel size to develop the residential development and marina or develop to reasonably satisfy the Overall Project Purpose.

The undeveloped portions of this coastal area consist of high quality mangroves and have very limited water access from Pine Island Sound and the lower Charlotte Harbor Estuary. The development of a project which would satisfy the Overall Project Purpose would adversely impacts to these estuary fringing mangroves, adjacent seagrass bottoms resulting in substantially greater adverse impacts to the aquatic ecosystem as well as other significant adverse environmental impacts. Accordingly, the Applicant screened out these sites because they could not reasonably satisfy the Overall Project Purpose and would result in greater impacts to the aquatic ecosystem and other significant adverse environmental impacts.

3. Pine Island Area: Additional sites on Pine Island were identified by the Applicant, each of which would require impacts to coastal mangroves and substantial dredging within the Pine Island Sound and Matlacha Aquatic Preserve in order to develop a project that would satisfy the Overall Project Purpose. Policy 14.1.5 of the Lee County Comprehensive Plan prohibits impacts to all mangrove wetlands on Pine Island that are associated with the Aquatic Preserves which surround Pine Island - Pine Island Sound and Matlacha Aquatic Preserves. Any project which required the development of a marina or an access channel that impacts coastal wetlands could not occur consistent with the Lee Plan and therefore would be prohibited. In addition, the development of a new access channel would require dredging of sovereignty submerged lands located within either the Pine Island Sound Aquatic Preserve or the Matlacha Aquatic Preserve. Areas designated as aquatic preserves are those state-owned submerged lands which have exceptional biological, aesthetic, and scientific value and are intended to be set aside forever as preserves or sanctuaries for the benefit of public. As such any proposed dredging within an aquatic preserve will be prohibited unless the activity is demonstrated to be clearly in the public interest. Other parcels located on Pine Island with an existing access channel are associated with developed properties.

Accordingly, these sites were screened out by the Applicant because they could no reasonably satisfy the Overall Project Purpose.

- 
4. Collier County South to Naples: Property identified within the 45 minute travel time to the Gulf of Mexico located with coastal Collier County, Wiggins Pass south to the City of Naples were either developed with existing uses or, if vacant, were for sale at prices that were greater than would sustain development of a project that is capable of satisfying the Overall Project Purpose. As such, the applicant screened out these sites because they could not reasonably satisfy the Overall Project Purpose.

5. Southern Lee County from the Caloosahatchee River to the Collier County Line: The Applicant identified parcels located on the Lee County coast from south of the Caloosahatchee River to the Lee/Collier County line. Several sites of vacant land were located within the 45 minute travel time to the Gulf of Mexico. A number of

partially developed waterfront sites within this travel time to the Gulf of Mexico were evaluated and screened out because they did not meet the minimum size requirement and/or were located in an industrial marine and working waterfront area. Development of a project that would satisfy Overall Project Purpose (e.g. residential development and marina with watercraft access) would be inconsistent with the adjacent industrial marine land uses and the State of Florida's policy promoting the enhancement and preservation of working waterfronts. Please see Florida Statute 342.201 Waterfronts Florida Program. The Applicant screened out these sites since they could not reasonably satisfy the Overall Project Purpose.

The Applicant identified four (4) sites within this area for further evaluation as described below.

After screening out the sites as noted above, the Applicant proceeded to develop a mixed-use site development plan to include a variety of residential housing types and water-front amenities at densities that would meet the market demand, stay within the expected market price range, and maintain a financially viable project considering, among other things, development and construction costs.

Second, the Applicant used the following ten criteria to evaluate whether the alternative sites could be developed to achieve the Overall Project Purpose.

Location: The site must be within reasonable proximity to and with direct access to the Gulf of Mexico which the Applicant has defined a maximum 45 minute travel time to the Gulf waters. In addition the site must be proximate to urban services (major transportation, shopping and healthcare infrastructure) and employment opportunities within Lee County.

The distance of the parcel to the Gulf of Mexico was determined by measuring from the alternative sites' shoreline where it was closest to the gulf. The limit of the Gulf of Mexico was set at the Sanibel Causeway or the middle of a pass from a bay to the gulf. The boat travel time was estimated by taking the various distances of the different regulated speed zones. There are three general speed zones involved for these parcels: slow speed, 25 miles per hour maximum in the channel, and unrestricted. The slow speed zones speed was determined to be 5 miles per hour based on the average slow speed for the typical recreational boat. The unrestricted speed was determined to be 35 miles per hour based on the average on plane speed of a typical recreational boat capable of safe navigation within the Gulf of Mexico.

Size: In order to satisfy the Overall Project Purpose, the Applicant has determined minimum range of density between 260 to 350 residential units representing a mix of single and multi-family units and a range of 145 to 200 boat slips. This range of units/wet slip density will spread the cost of the necessary improvements (homes, roads, utilities, water management, marina, amenities, land and construction costs) over a sufficiently large number of residential units to maintain a residential unit cost in order to achieve the Overall Project Purpose. In order to develop an economically feasible up-scale waterfront residential community that includes a marina project, a site of no less than 85 and up to 135 acres developed acres is necessary. Smaller parcels do not provide sufficient space to achieve the residential mix and density, provide water access and construct the amenities and infrastructure to support a



project in accordance with existing regulatory requirements that will meet the Overall Project Purpose.

Navigational Access: A marina and single family boat docks are an integral part of the economic practicability of this project. Therefore, the property must have direct access to an existing navigable channel sufficiently large/deep to accommodate boats with a maximum length of 40± feet and a maximum draft of approximately four feet or have the reasonable expectation that such a channel could be developed.

Marina Flushing and Water Quality: State water quality standards (contained in South Florida Water Management District (SFWMD) Applicant's Handbook (AH) Volume I 10.2.4.3) require that new marinas and canals with docks meet specific flushing standards in order to insure that these facilities do not result in degradation of existing water quality in the adjacent water body. In addition, projects in general that discharge stormwater into an Outstanding Florida Waters (OFW) must meet a higher level of treatment of storm water runoff prior to discharge into the OFW. (All Aquatic Preserves are listed as OFW.) The ability of create a functional marina and canal design that will meet the flushing standard is therefore important to the overall practicability of a property for the intended use.

Wetlands: The presence, quantity, and functions of wetlands on a site were considered.

Upland Access: Access to and from existing public roadways for project residents was considered.

Infrastructure: The proximity to and current capacity of infrastructure, such as potable water, sanitary sewer, electric power, and telephone/cable, are required to achieve the Overall Project Purpose.

Uplands, Listed Species, and Historical Resources: Properties were evaluated for presence of high quality uplands, habitat for listed species, and historical resources.

County/City Zoning: The sites were evaluated for appropriate County or City zoning to allow for multi-family and single family residential development that includes a marina.

Willing Seller: The site must have been reasonably available from a willing seller at a fair market value at the time marked entry.

Third, the Applicant reviewed information available on the Lee County Property Appraiser's website ([www.leepa.org](http://www.leepa.org)) to identify potentially suitable properties. The criteria for the initial review was to identify all undeveloped properties within the 45 minute travel time to the Gulf of Mexico ("Market Area") with direct access to open water (i.e. properties with riparian rights along the Caloosahatchee River, San Carlos Bay, Matlacha Pass, Pine Island Sound, Estero Bay, Big Hickory Bay, and their tributaries). Properties that are publicly owned, owned by private conservation organizations (such as the Sanibel - Captiva Conservation Foundation, Inc.), and privately owned lands encumbered by a conservation easement were omitted from consideration since they could not reasonably satisfy the Overall Project Purpose.

Fourth, the Applicant identified those properties that substantially met two basic criteria

(location and size). Contiguous parcels under the same ownership per the Lee County Property Appraiser's website were considered to be a single property. Eighteen properties were identified as warranting further investigation and analysis (Figure 1).

Fifth, the Applicant analyzed each of the properties using the ten factors described in paragraphs (1) through (10) above and the regulatory requirements in (40 CFR 230.10.(a)):

While all of the criteria are important to satisfying the Overall Project Purpose, some have a greater impact on achieving the Overall Project Purpose within the confines established in 40 C.F.R. Section 230.10(a) than others. Therefore, the Applicant assigned a weighting factor from 1 to 10 for each criteria. Each criteria was assigned a score from 0 (does not meet the criteria) to 10 (fully meets the criteria) for each site identified in this analysis. A brief explanation of the scoring paradigm for each criterion is provided below:

Location: The Overall Project Purpose is to construct a residential development and marina with watercraft access to the Gulf of Mexico in Southwest Florida. This location criteria as described in the Location Section would include properties which have not been previously screened out with riparian rights located within a 45 minute boat travel time to the Gulf of Mexico (e.g., Market Area). Properties located within a 15 minute boat ride to the Gulf of Mexico were scored a 10 while properties located 15 to 30 minutes from the gulf received a score of 5 and properties between 30 and 45 minutes to the gulf were scored a 3. Properties with a boat travel time greater than 45 minutes to the Gulf of Mexico received a 0.

Size: A property size range of approximately 85 to 135 acres has been identified as the size upper and lower limits for a site to achieve the Overall Project Purpose. Larger properties provide the opportunity for greater flexibility, more amenities, and a greater number of units at a lower density. Smaller properties require greater density have less design flexibility, and if minimum density is not achieved, require that fixed costs (land, infrastructure, amenities, etc) be spread over fewer units. Therefore, the scoring of property size is as follows: 100 - 135 acres: 10, 135 – 200 acres: 7, 85 - 99 acres or greater than 200 acres: 5, and less parcels than 85 acres were not considered.

Navigational Access: Boating access is a necessary component of the Overall Project Purpose. Therefore, a navigational channel with sufficient depth and width to accommodate the anticipated boats is required. Properties with direct access to an appropriately sized public navigational channel and that would not require any dredging of sovereign submerged lands received a score of 10. Properties that would require dredging of less than 100 feet to create new off-site channel or maintenance dredging of an existing channel, would not impact significant benthic resources and are not located within an Outstanding Florida Waters (OFW) were scored a 5. Properties that would require off-site dredging of greater than 100 feet or impact significant benthic resources and are located within an OFW or on sovereign submerged lands received a score of 0.

Marina Flushing and Water Quality: Section 10.2.4 of the SFWMD AH provides that an applicant must provide reasonable assurance that the regulated activity will not violate water quality standards in areas where such standards apply. Section 10.2.4.3, AH Volume I, provides additional water quality considerations for docking facilities. More specifically, Section 10.2.4.3(d) provides that the applicant must document, through hydrographic studies,

that pollutants leaving the proposed docking facility “will be adequately dispersed in the receiving water body so as to not cause violations of water quality standards. According to Section 10.2.4.3(b), a flushing time of less than or equal to four days is the maximum that is desirable for docking facilities. In addition, projects that discharge stormwater runoff into a receiving water body that has been designated as an OFW are required under Section 4.1.3 of the AH Volume II, provide at least one half inch of dry detention or retention pretreatment in order to provide reasonable assurance that the project will meet the higher level of treatment standards associated with discharge into the OFW. A property for which a functional marina/canal system can be reasonably designed and constructed to meet the flushing criteria and which does not discharge into an OFW is scored a 10. A property that will discharge into an OFW and for which a functional marina/canal system can be reasonably designed and constructed to meet the flushing criteria is scored a 5. A property for which a functional marina/canal system cannot be reasonably designed and constructed to meet the flushing criteria will not receive the required SFWMD permit and therefore is scored a 0.

Wetlands: Potential impacts to the aquatic environment were carefully considered. Properties, the future development of which would likely result in no wetland impacts, were preferred and therefore scored a 10. Properties that would require impacts to wetlands degraded by previous clearing, mosquito ditching or exotic species infestation were scored a 5. Properties, the future development of which would likely result in impacts to high quality undisturbed wetlands were assigned a score of 0. For the purposes of the evaluation of potential wetland impacts, a development footprint of 80 acres (based on the size of the project footprint in the project’s COE Public Notice dated August 7, 2012) was used.

Upland Access: Access to and from the property by existing roadways is important to achieve the Overall Project Purpose. Property with existing road and legal access and capacity was scored a 10. A property with legal access but no road is scored a 5. Properties located on Sanibel Island and Pine Island, which either have existing road or legal access, received a score of 3 due to limitation on capacity, and lengthy commutes to employment centers, and other transportation and healthcare facilities, and/or bridge associated with living on the outer islands. A score of 0 is assigned to a property without existing road or legal access and to a property whose sole access is via boat.

Infrastructure: Infrastructure, such as potable water, sanitary sewer, electric power, and telephone/cable, with adequate capacity is required for a site to achieve the Overall Project Purpose. Property with these utilities stubbed to the property and with current capacity for the project was scored a 10. A property where potential capacity was available but the lines were not present adjacent to the property boundary is scored a 5. A score of 0 is assigned to a property (such as an island) which could not likely be served by these utilities due to capacity or access issues.

Uplands, Listed Species, and Historical Resources: Properties were evaluated for presence of (a) high quality uplands, (b) habitat for federally listed species, and (c) known historical resources. Designated critical habitat, core foraging areas for wood storks, and confirmed gopher tortoise (indigo snake) habitat were used to determine the potential presence of federally listed species. Property without any of these issues received a score of 10. A property on which (a), (b), or (c) occurs received a score of 7. Properties, the future

development of would likely result in minor impacts to (a), (b), or (c) received a score of 3. Properties, the future development of would likely result in substantial impacts to (a), (b), or (c) or would likely result in the take or disturbance of a bald eagle or its nest received a score of 0.

County/City Zoning: The property should have the appropriate County or City zoning to allow for multi-family and single family residential development that includes a marina. Proper existing zoning, which reduces the difficulty, cost, and time required to obtain local government approvals, is preferred and therefore scored a 10. Properties without the appropriate zoning, but which could be reasonably anticipated to be rezoned, received a score of 5. Properties unlikely to receive a favorable rezoning from the County/City were scored a 0.

Willing Seller: In order for a property to be acquired for a project that would satisfy the Overall Project Purpose, the land must have been reasonably available from a willing seller. For this analysis all undeveloped properties were considered to be available from a willing seller and therefore scored a 10.

For each property each of the ten criteria were scored based on the scoring paradigm described above. The score for each criterion was then multiplied by the weighting factor to calculate the number of points the property scored for that criteria. The sum of the points for the ten criteria results in the total points for the property (Table 1). The property receiving the highest point total is the property best suited for the proposed project. The analysis of these properties are based on a review of publicly available information such as National Wetland Inventory (NWI) maps, soils maps contained within the Soil Survey of Lee County, Florida, photo interpretation of recent color aerial photography, Florida Fish and Wildlife Conservation Commission (FWC) listed species GIS database, State of Florida Bureau of Archaeological Research SHPO GIS database, and aerial reconnaissance via helicopter. Site inspections would be required in order to more definitively discuss the likely extent of federal jurisdictional wetlands on each property and/or the relative qualities of those wetlands.

The summary of Eden Oak's analysis is provided below:

#### Site 1. M. Zemel Property

The 223.89± acre property consists of a single parcel (Strap Number 23-45-23-C1-00005.0000) located in south Cape Coral within a portion of Section 23, Township 45 South, Range 23 East (Figure 2). Based on a review of the Lee County Property Appraiser's website the property is bordered by undeveloped wetlands owned by the City of Cape Coral (Rotary Park) to the north, existing single family homes along SW 1<sup>st</sup> Court to the east, undeveloped privately owned wetlands and the Caloosahatchee River to the south, and undeveloped privately owned and City owned mangrove wetlands (Rotary Park) to the west. There appears to be a potential future access point to the site from SW 1<sup>st</sup> Court at the intersection with SW 59<sup>th</sup> Terrace. The scoring of this property is as follows.

The property is located just east of Cattle Dock Point on the north shore of the Caloosahatchee River, with an estimated boat travel time to the Gulf of Mexico of 25 minutes. This property also appears to have riparian rights and is therefore scored a 5 for location (Table 1). At 223.89± acres, the property is larger than the optimum size and is scored a 5

for the size criteria. According to the Lee County Property Appraiser's website there is an appropriately sized navigational channel that currently serves the home sites along the east side of SW 1<sup>st</sup> Court that ends approximately 100 feet from the southeast corner of the M. Zemel Property. Dredging a 100± feet extension of the existing channel through sovereign submerged lands would be necessary for marina access and would require proprietary approval from the State of Florida Board of Trustees for the Internal Improvement Trust Fund (TIITF). This area of river bottom consists of sand/silt/shell with scattered shoal grass. (A second potential navigational access point is a tidal creek located in the western portion of the site. However, extensive off-site dredging would be necessary to obtain appropriate depths in this creek, and TIITF propriety approval would be required as well.) This portion of the Caloosahatchee River is a Class III Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 5 for navigational access, assuming the necessary TIITF proprietary approvals were available. The property is configured such that there is 1,540± linear feet of shoreline along the river and 1,340± linear feet of shoreline along the tidal creek. In order to design a functional marina that would meet SFWMD flushing criteria, an oxbow design would be necessary to accommodate a sheltered basin. The amount of dredging in the river would be minimal, in submerged lands with seagrass present, and would require TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 1. Site 1 (M. Zemel Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	5	50
Size	9	5	45
Navigational Access	8	5	40
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	10	50
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	5	10
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>245</b>

According to the Soil Survey of Lee County, Florida, the property contains seven soil types. Six of the seven soil types, which represent a majority of the property, are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the majority of the site as mangrove and high salt marsh/salt tern. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the majority of the site appears to be either mangrove or high salt marsh wetlands. The portion of the site depicted as containing upland soils on the soil survey and as freshwater forested wetland on the NWI mapping appears to be predominately hydric pine flatwoods that have become dominated by exotic plant species with small islands of potentially upland pine flatwoods. Portions of the site along the east and north property lines appear to have been somewhat disturbed by previous off-site development activities resulting in exotic plant species encroaching into the wetlands. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost entirely in

wetlands the majority of which are relatively undisturbed high quality mangroves and salt marsh. Assuming the 80 acre development footprint could be placed in the site's 13.3 acres of uplands (FLUCCS 411E, 411E3, and 450) and 27.8 acres of exotic infested wetlands (FLUCCS 619), approximately 38.9 acres of impacts to mostly pristine saltwater marshes (FLUCCS 642) and mangrove wetlands (FLUCCS 612 and 612E2) would be necessary. Therefore, the property is scored a 0 for the wetland criteria.

The property is located in close proximity to SW 1<sup>st</sup> Court and there appears to be access to a public right-of-way (i.e. no plated single family lot) between the property and SW 1<sup>st</sup> Court immediately west of SW 59<sup>th</sup> Terrace. This appears to provide legal upland access and therefore the property received a score of 10 for this criteria. Infrastructure has been provided to the existing homes along SW 1st Court. The City of Cape Coral Utility Department provides potable water and wastewater treatment (sanitary sewer), and transmission capacity to serve this property. Electric power by Lee County Electric Cooperative (LCEC) and telephone and cable services by CenturyLink and/or Comcast are also readily available. It appears that these services could also be extended into the M. Zemel Property resulting in a score of 10.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts Bald Eagle Nest LE-042 being located in the southeastern portion of the property (Figure 2). This nest is currently active. The Bald and Golden Eagle Protection Act (BGEPA) prohibits the take or disturbance of bald eagles and requires certain setbacks from the nest for development imposing a constraint of the site plan design (i.e. FWS and FWC would not be likely to approve development within the 330' zone of the nest). The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 2,880 feet and a slip allotment of three slips per 100 feet the property has the potential to have 86± slips pursuant to the Lee County Manatee Protection Plan. This is below the minimum number of required slips (145) for the proposed development. Approximately 0.1 acre of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into a sheltered marina within the parcel. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would impact the bald eagle nest, if authorization could be obtained, and smalltooth sawfish critical habitat. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned CCC. The zoning would need to be changed to PUD or CM in order to allow the proposed development. However, in light of the existing adjacent high rise and marina parcel uses a rezoning is likely to be approved. Therefore, the property was scored a 5 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the M. Zemel Property scored 245 (Table 1).

### Site 2. S. Zemel Property

The 120.62± acre property consists of two parcels (Strap Numbers 23-45-23-C4-00004.0000 and 26-45-23-C1-00001.0000) located in south Cape Coral within a portion of Sections 23 and 26, Township 45 South, Range 23 East (Figure 3). Based on a review of the Lee County Property Appraiser's website the property is bordered by undeveloped privately owned mangrove wetlands to the north and east and by the Caloosahatchee River to the south and west. There does not appear to be a potential future access to the site from existing public roadways. The scoring of this property is as follows.

The property is located just east of Cattle Dock Point on the north shore of the Caloosahatchee River, with an estimated boat travel time to the Gulf of Mexico of 25 minutes. This property also appears to have riparian rights and is therefore scored a 5 for location (Table 2). At 120.62± acres, the property is within the optimum size range and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website there is not an appropriately sized navigational channel in close proximity of the property. Dredging a channel estimated to be at least 1,000± feet through sovereign submerged lands would be necessary for marina access and would require proprietary approval from TIITF. This area of river bottom consists of sand/silt/shell with scattered shoal grass. This portion of the Caloosahatchee River is a Class III Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 0 for navigational access. The property has 3,050± linear feet of shoreline along the river. In order to design a functional marina that would meet SFWMD flushing criteria, an oxbow design would be necessary to accommodate a sheltered basin. The amount of dredging in the river would be substantial, in submerged lands with seagrass present, and would require prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 2. Site 2 (S. Zemel Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	5	50
Size	9	10	90
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	0	0
Infrastructure	4	5	20
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>170</b>

According to the Soil Survey of Lee County, Florida, the property contains three soil types. Two of the three soil types, which represent a majority of the property, are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the majority of the site as mangrove and high salt marsh/salt tern. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the majority of the site appears to be either mangrove or high salt marsh wetlands. The

portion of the site depicted as containing upland soils on the soil survey and as freshwater forested wetland on the NWI mapping appears to be predominately hydric pine flatwoods that have become dominated by exotic plant species with small islands of potentially upland pine flatwoods. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost entirely in wetlands the vast majority of which are relatively undisturbed high quality mangroves and salt marsh. Assuming the 80 acre development footprint could be placed in the site's 3.4 acres of uplands (FLUCCS 450) and 35.8 acres of exotic infested wetlands (FLUCCS 619), approximately 40.8 acres of impacts to pristine saltwater marshes (FLUCCS 642) and mangrove wetlands (FLUCCS 612) would be necessary. Therefore, the property is scored a 0 for the wetland criteria.

There does not appear to be any direct upland access to this property and therefore the property received a score of 0 for this criteria. Infrastructure has been provided to the existing homes located east of the property. Wetland impacts would likely be required to extend these services to this property. It appears that these services could be extended into the S. Zemel Property resulting in a score of 5.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 3,050 feet and a slip allotment of three slips per 100 feet the property has the potential to have 90± slips pursuant to the Lee County Manatee Protection Plan. This is below the minimum number of required slips (145) for the proposed development. Approximately 1 acre of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into a sheltered marina within the parcel. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would impact smalltooth sawfish critical habitat, and might impact the off-site bald eagle nest. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned CCC. The zoning would need to be changed to PUD or CM in order to allow the proposed development. The limited size and somewhat remote location of this property, notwithstanding adjacent high rise multi-family and marina uses, results in the property being unlikely to receive rezoning for the level of development contemplated at the subject property. Therefore the property was scored a 0 for zoning. The property is currently undeveloped and the property received a score of 10 for the willing seller criteria.

Based on the criteria above the S. Zemel Property scored 170 (Table 2).

### Site 3. Wiltshire Property

The 105.28± acre property consists of two parcels (Strap Numbers 22-45-23-C3-00002.0000 and 27-45-23-C2-00002.0000) located in south Cape Coral within a portion of Sections 22 and 27, Township 45 South, Range 23 East (Figure 4). Based on a review of the Lee County Property Appraiser's website the property is bordered by undeveloped privately owned mangrove wetlands to the north and east and by the Caloosahatchee River to the south and



west. There does not appear to be a potential future access to the site from existing public roadways. The scoring of this property is as follows.

The property is located at Cattle Dock Point on the north shore of the Caloosahatchee River, with an estimated boat travel time to the gulf of 25 minutes. This property also appears to have riparian rights and is therefore scored a 5 for location (Table 3). At 105.28± acres, the property is within the optimum size range and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website there is an appropriately sized navigational channel in close proximity of the property. Dredging a 100± feet extension of the existing channel through sovereign submerged lands would be necessary for marina access and would require proprietary approval from TIITF. This area of river bottom consists of sand/silt/shell with scattered shoal grass. This portion of the Caloosahatchee River is a Class III Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 5 for navigational access, assuming the necessary TIITF proprietary approvals were available. The property has 6,850± linear feet of shoreline along the river. In order to design a functional marina that would meet SFWMD flushing criteria, an oxbow design would be necessary to accommodate a sheltered basin. The amount of dredging in the river would be minimal, in submerged lands with seagrass present, and would require prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 3. Site 3 (Wiltshire Property) Scoring Matrix .

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	5	50
Size	9	10	90
Navigational Access	8	5	40
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	0	0
Infrastructure	4	0	0
Uplands, Listed Species, Historical Resources	3	3	9
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>199</b>

According to the Soil Survey of Lee County, Florida, the property contains two soil types. Both soil types are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the entire site as mangrove wetland. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the entire site is undisturbed mangrove wetlands. Several small mangrove die off areas currently totaling 3.5± acres are located in the southern portion of the property. The size of the die off areas in 1998 were larger (7.1± acres) indicating that these areas are naturally restoring. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur entirely in relatively undisturbed high quality mangrove wetlands. An 80 acre development footprint would impact 77.4 acres of pristine mangroves (FLUCCS 612) assuming the footprint could be adjusted to impact all of the 2.6 acres of

disturbed mangrove wetlands (FLUCCS 612D) onsite. Therefore, the property is scored a 0 for the wetland criteria.

There does not appear to be any direct upland access to this property and therefore the property received a score of 0 for this criteria. Infrastructure has been provided to the existing homes located north and west of the property. However, substantial wetland impacts would be required to extend these services to this property resulting in a score of 0.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 6,850 feet and a slip allotment of three slips per 100 feet the property has the potential to have 204± slips pursuant to the Lee County Manatee Protection Plan. This is above the minimum number of required slips (145) for the proposed development. Approximately one acre of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into a sheltered marina within the parcel. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. Therefore, the property received a score of 3 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned CCC. The zoning would need to be changed to PUD or CM in order to allow the proposed development. The limited size and somewhat remote location of this property, notwithstanding adjacent high rise multi-family and marina uses, results in the property being unlikely to receive rezoning for the level of development contemplated at the subject property. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped and the property received a score of 10 for the willing seller criteria.

Based on the criteria above the Wiltshire Property scored 199 (Table 3).

#### Site 4. Ft. Myers Broadcasting Property

The 231.20± acre property consists of two parcels (Strap Numbers 25-45-22-00-00001.0020 and 26-45-22-00-00002.0020) located on the southern portion of Pine Island within a portion of Sections 25 and 26, Township 45 South, Range 22 East (Figure 5). Based on a review of the Lee County Property Appraiser's website the property is bordered by undeveloped lands, agricultural lands, and scattered single family homes to the north, south, and west, and by Matlacha Pass to the east. There is access to the site from Stringfellow Road to the west. The scoring of this property is as follows.

The property is located on the west shore of Matlacha Pass approximately 5.8 miles from the Gulf of Mexico with an estimated boat travel time of 17 minutes. This property also appears to have riparian rights, and is therefore scored a 5 for location (Table 4). At 231.20± acres, the property is larger than the optimum size and is scored a 5 for the size criteria. According to the Lee County Property Appraiser's website there are no appropriately sized navigational channels within a thousand feet of the site. Dredging a channel over a thousand feet in length through sovereign submerged lands would be necessary for marina access and would require proprietary approval from TIITF. This area of pass bottom consists of sand/silt/shell

with scattered shoal grass. This portion of Matlacha Pass is a Class II Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 0 for navigational access. The property is configured such that there is 3,200± linear feet of shoreline along the main parcel and 8,170± linear feet of shoreline along the three mangrove islands. In order to design a functional marina that would meet SFWMD flushing criteria, an extensive amount of dredging of the shallow water areas between the islands and the main parcel would be necessary to accommodate a sheltered basin and would require prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 4. Site 4 (Ft. Myers Broadcasting) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	5	50
Size	9	5	45
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	3	15
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>160</b>

According to the Soil Survey of Lee County, Florida, the property contains seven soil types. Four of the seven soil types, which represent approximately half of the property, are typically associated with mangrove or salt marsh wetlands. A fifth hydric soil type, which commonly occurs in freshwater wetlands is located in the western portion of the property. The NWI mapping of the property depicts the eastern portion of the site as mangrove and high salt marsh/salt tern and the western portion of the site as uplands. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the eastern half of the property appears to be undisturbed mangrove wetlands. With the exception of a small depressional wetland located near Stringfellow Road, the western half of the property appears to be upland pasture. The interface between the upland pasture and mangrove wetlands consists of exotic plant species and disturbed lands from which exotic plant species have been removed. The development of this property to create 260 to 350 residential units could occur primarily in uplands. However, in order to excavate a marina to provide 145 to 200 boat slips extensive dredging in undisturbed mangrove and/or shallow bay bottom would be necessary. A minimum of two acres of impacts to seagrass meadows would be required to dredge the access channel into a sheltered marina within the parcel. An additional eight acres of dredging within the site's mangroves would be necessary for the marina. Therefore, the property is scored a 0 for the wetland criteria.

The property is located on the east side of Stringfellow Road which provides upland access. However, given the property's location on Pine Island, the property received a score of 3 for this criteria. Infrastructure has been provided to the existing homes along Stringfellow Road. The Greater Pine Island Water Association (GPIWA) serves the entire island and has

adequate production and transmission capacity to serve this property. Lee County Utilities operates a wastewater treatment (sanitary sewer) facility that serves a limited number of properties on Pine Island. This property may be eligible for service, but alternatively would have the opportunity to develop an on-site wastewater treatment system in a manner similar to several other properties on Pine Island. Electric power by LCEC and telephone and cable by CenturyLink and/or Comcast are also readily available for this property. It appears that these services could also be extended into the Ft. Myers Broadcasting Property resulting in a score of 10.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts Bald Eagle Nest LE-018 being located along the north property line (Figure 5). This nest is active. A second bald eagle nest is located off-site to the south. The BGEPA prohibits the take or disturbance of bald eagles and requires certain setbacks from the nest for development imposing a constraint of the site plan design (i.e. FWS and FWC would not be likely to approve development within the 330' zone of the nest). The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 11,370 feet and a slip allotment of at least five slips per 100 feet the property has the potential to have 565± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Approximately two acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into a sheltered marina within the parcel. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development may impact the bald eagle nest and would impact smalltooth sawfish critical habitat. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned C1A, RM-2, RS-1, and AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Since this property does not have an approved/grandfathered development permit, and in light of Lee Plan Policy 14.2.2, it's further development would be limited to single family residential structures. Additionally, in light of Lee Plan Policies 14.1.1 and 14.1.5 the property could not be rezoned to allow for a marina and dredged access channel to open water. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the Ft. Myers Broadcasting Property scored 160 (Table 4).

#### Site 5. A. Peterson Property

The 106.20± acre property consists of two parcels (Strap Numbers 24-45-22-00-00003.0000 and 23-45-22-00-00003.1010) located on the southern portion of Pine Island within a portion of Sections 23 and 24, Township 45 South, Range 22 East (Figure 6). Based on a review of the Lee County Property Appraiser's website the property is bordered by privately owned mangrove wetlands to the north and south, Matlacha Pass to the east, and single family residences and privately owned mangrove wetlands to the west. The Pine Island Resort

KOA development is located immediately west of the property, it is not known if there is legal access from Pine Island Resort KOA to the A. Peterson Property. The scoring of this property is as follows.

The property is located on the west shore of Matlacha Pass approximately 5.8 miles from the Gulf of Mexico with an estimated boat travel time of 17 minutes. This property also appears to have riparian rights, and is therefore scored a 5 for location (Table 5). At 106.20± acres, the property is within the optimum size range and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website an appropriately sized navigational channel is located 400± feet to the northeast of the northeast property corner. Therefore, dredging an access channel of at least 400± feet through sovereign submerged lands would be necessary for marina access and would require proprietary approval from TIITF. This area of bay bottom consists of sand/silt/shell with scattered shoal grass. This portion of Matlacha Pass is a Class II Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 0 for navigational access. The property is configured such that there is 1,980± linear feet of shoreline along the main parcel and 6,890± linear feet of shoreline along the mangrove island. In order to design a functional marina that would meet SFWMD flushing criteria, an extensive amount of dredging of the shallow water areas between the mangrove island and the western mangrove area would be necessary. The amount of dredging of the shallow water areas would be substantial and would require prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 5. Site 5 (A. Peterson) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	5	50
Size	9	10	90
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	3	15
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>205</b>

According to the Soil Survey of Lee County, Florida, the property contains two soil types. Both soil types are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the entire site as mangrove wetland. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the property appears to be undisturbed mangrove wetlands. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would occur entirely within undisturbed mangrove wetlands. An 80 acre development footprint would impact 80 acres of pristine mangroves (FLUCCS 612) onsite. A minimum of two acres of impacts to seagrass meadows offsite would be required to dredge the access channel into a sheltered marina within the parcel. Therefore, the property is scored a 0 for the wetland criteria.

The property is located on the east side of Stringfellow Road and adjacent to Pine Island Resort KOA. It is not known if there is legal access from Pine Island Resort KOA to the A. Peterson Property. Other potential access points to the northwest and southwest would require mangrove wetland impacts. Given the property's location on Pine Island, the property received a score of 3 for this criteria. Infrastructure has been provided to the existing residences in the Pine Island Resort KOA immediately west of the property. The GPIWA serves the entire island and has adequate production and transmission capacity to serve this property. Lee County Utilities operates a wastewater treatment facility that serves a limited number of properties on Pine Island. This property may be eligible for service, but alternatively would have the opportunity to develop an onsite wastewater treatment (sanitary sewer) system in a manner similar to several other properties on Pine Island. Electric power by LCEC and telephone and cable by CenturyLink and/or Comcast are also readily available for this property. It appears that these services could also be extended from the Pine Island Resort KOA into the Peterson Property resulting in a score of 10.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 8,870 feet and a slip allotment of at least five slips per 100 feet the property has the potential to have 440± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Approximately two acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into the marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Since this property does not have an approved/grandfathered development permit, and in light of Lee Plan Policy 14.2.2, it's further development would be limited to single family residential structures. Additionally, in light of Lee Plan Policies 14.1.1 and 14.1.5 the property could not be rezoned to allow for a marina and dredged access channel to open water. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the A. Peterson Property scored 205 (Table 5).

#### Site 6. Eden Oak Property

The 306.75± acre property consists of seven parcels (Strap Numbers 34-45-23-00-00001.0060, 34-45-23-00-00001.0000, 34-45-23-00-00001.0020, 33-45-23-00-00002.0020, 33-45-23-00-00002.0010, 04-46-23-00-00003.0000, and 04-46-23-00-00004.0000) located at the mouth of the Caloosahatchee River within portions of Sections 33 and 34, Township 45 South, Range 23 East and within portions of Sections 4, 9, and 10, Township 46 South, Range 23 East (Figure 7). Of that total, 158.31± acres are located on either side of Shell Point Boulevard. The remaining 148.44± acres consist of mangrove islands located to the

west and south of the 158.31± acres. Based on a review of the Lee County Property Appraiser's website the lands north of the 158.31± acres consist of single family homes with boat docks (Palm Acres). The Caloosahatchee River is located to the northwest and preserved wetlands associated with the Woodlands at Shell Point and St. Charles Harbor developments are located to the east and south. Publicly and privately owned mangroves, are located to the west and south. The 148.44± acres of mangrove islands are also bordered by undeveloped mangrove wetlands. There is potential future access to the 158.31± acres from Shell Point Boulevard. The scoring of this property is as follows.

The property is located in close proximity to Shell Creek and is on the south shore of the Caloosahatchee River, with an estimate boat travel time to the Gulf of Mexico of 18 minutes. The property also has riparian rights, and is therefore scored a 5 for location (Table 6). At 306.75± acres, the property is larger than the optimum size and is scored a 5 for the size criteria. According to the Lee County Property Appraiser's website there are appropriately sized navigational channels that currently serves the Palm Acres homesites in the northwest corner of the property located east of Shell Point Boulevard and on the north edge of the property west of Shell Point Boulevard. Both channels extend into the property. This portion of the Caloosahatchee River is a Class III Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 10 for navigational access. The development plan for the property can include a connection under Shell Point Boulevard to connect the two existing dead end canals. This design takes advantage of the differing water level elevations on either side of Shell Point Boulevard which will allow for a functional marina that meets State flushing standards. Therefore, the property is scored a 10 for this criteria.

Table 6. Site 6 (Eden Oak Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	5	50
Size	9	5	45
Navigational Access	8	10	80
Marina Flushing and Water Quality	7	10	70
Wetlands	6	5	30
Upland Access	5	10	50
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	3	9
County/City Zoning	2	5	10
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>394</b>

According to the Soil Survey of Lee County, Florida, the property contains two soil types. Both soil types are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the majority of the site as either mangrove forest or mangrove shrub. Based upon a review of available historic aerial photography from 1944 through 2011 the construction of Shell Point Boulevard was initiated and an extensive network of mosquito ditches was excavated between 1958 and 1966. By 1972 the key cuts that define what would have been the canal system on the west side of the Eden Oak property had been made and a fill berm along the perimeter of a 21.29± acre future

development area on Eden Oak west of Shell Point Boulevard was in place. Since 1986 the 21.29± acre area has become vegetated by melaleuca and Brazilian pepper while the remainder of the cleared areas has become dominated by a dense growth of sapling mangroves. The 148.44± acres of mangrove islands appear to be undisturbed high quality mangroves. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost entirely in wetlands. This development could be restricted to the lower quality mangroves that had been previously ditched and/or cleared and the impounded area. No impacts would be required for the mangrove islands. Therefore, the property is scored a 5 for the wetland criteria.

The portion of the property that would potentially be developed is bisected by an existing two lane paved public road (Shell Point Boulevard). This provides upland access to property on either side of this road and therefore the property received a score of 10 for this criteria. Infrastructure has been provided to the existing single homes in Palm Acres and Shell Point Retirement Community to the north. It appears that these services could also be extended into the Eden Oak Preserve Property resulting in a score of 10.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts Bald Eagle Nest LE-002 being located east of the property within the St. Charles Harbor Subdivision (Figure 7). The bald eagle nest is approximately 605 feet from the east property line and therefore a site plan could be developed which would completely avoid the 660 feet buffer zone and thereby avoid the need for a FWS permit to develop the property. The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 8,687 feet and a slip allotment of three slips per 100 feet the property has the potential to have 261± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the maximum number of required slips (200) for the proposed development. Minor impacts to critical smalltooth sawfish habitat would be required to deepen and extend the existing access channels within the property into the marina. The total proposed impacts to smalltooth sawfish critical habitat is 0.83 acre of shallow euryhaline habitat and 2,771 linear feet of red mangrove shoreline. Additionally 0.14 acre of shallow euryhaline habitat is proposed to be modified by dredging to no deeper than - 3 feet MLLW. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would result in minor impacts to designated critical habitat for the smalltooth sawfish. Therefore, the property received a score of 3 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Given proximity of The Woodlands mid rise development to the south, the re-zoning of this property by Lee County is reasonably anticipated. Therefore, the property was scored a 5 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the Eden Oak Property scored 394 (Table 6).



#### Site 7. M + I Regional Properties LLC Property

The 200.49± acre property consists of four parcels (Strap Numbers 10-46-23-00-00004.2000, 09-46-23-00-00004.0020, 09-46-23-00-00003.0000, and 09-46-23-00-00004.0010) located in Punta Rassa within portions of Sections 9 and 10, Township 46 South, Range 23 East (Figure 8). Based on a review of the Lee County Property Appraiser's website the property is bordered by Punta Rassa Cove to the north and east, McGregor Boulevard to the south and undeveloped privately owned mangrove wetlands to the west. There is access to the site from McGregor Boulevard. The scoring of this property is as follows.

The property is located on the southwest shore of the Punta Rassa Cove, 1.6± miles from the Gulf of Mexico with an estimated boat travel time to the gulf of eight minutes. This property appears to have riparian rights and is therefore scored a 10 for location (Table 7). At 200.49± acres, the property is larger than the optimum size and is scored a 5 for the size criteria. According to the Lee County Property Appraiser's website there is an appropriately sized navigational channel that currently serves the home sites in Jonathan Harbor that is located approximately 75 feet from the northern property line of the M + I Regional Properties Property. Dredging a 75± feet connection to the existing channel through sovereign submerged lands would be necessary for marina access and would require proprietary approval from TIITF. This area of cove bottom consists of sand/silt/shell with scattered shoal grass. This portion of the Punta Rassa Cove is a Class II Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 5 for navigational access. The property is configured such that there is 7,480± linear feet of shoreline along the cove. In order to design a functional marina that would meet SFWMD flushing criteria, an oxbow design along the northeast shoreline would be necessary to accommodate a sheltered basin. The amount of dredging in the cove would be substantial and would require prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 7. Site 7 (M + I Regional Properties LLC Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	5	45
Navigational Access	8	5	40
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	10	50
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	3	9
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>294</b>

According to the Soil Survey of Lee County, Florida, the property contains three soil types. Two of the three soil types, which represent a majority of the property, are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the majority of the site as mangrove. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the majority of the site appears to be

either mangrove or high salt marsh wetlands. Approximately 20.9 acres of the mangrove wetlands appear to have been mosquito ditched prior to 1966. An additional 13.5± acres of mangrove die off areas are located in the southern portion of the property. The size of the die off areas were larger (20.6± acres) in 1998 indicating that these areas are naturally restoring. A narrow upland berm vegetated by exotic plant species bisects the western portion of the site. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost entirely in wetlands the majority of which are relatively undisturbed high quality mangroves and salt marsh. Assuming the 80 acre development footprint could be placed in the site's 6.3 acres of uplands (FLUCCS 450) and 11.5 acres of disturbed mangrove wetlands (FLUCCS 612D), approximately 62.2 acres of impacts to mostly pristine saltwater marshes (FLUCCS 642) and mangrove wetlands (FLUCCS 612) would be necessary. Therefore, the property is scored a 0 for the wetland criteria.

The property is located along McGregor Boulevard providing upland access and therefore the property received a score of 10 for this criteria. Lee County Utilities provides potable water and sanitary sewer service to the existing homes at Jonathan Harbor and would be capable of serving this property. Electric power by Florida Power & Light and telephone and cable service by CenturyLink and/or Comcast are also readily available. It appears that these services could also be extended into the M + I Regional Properties LLC Property resulting in a score of 10.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 7,480 feet the property has the potential to have more than the minimum number of required slips (145) for the proposed development pursuant to the Lee County Manatee Protection Plan. Approximately 0.2 acre of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into a sheltered oxbow marina within the parcel. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. Therefore, the property received a score of 3 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned RPD. The zoning would need to be changed to PUD or CM in order to allow the proposed development. This property was recently rezoned for a multi-family high rise structure. However, given the substantial distance from open water of an adequate depth, it is unlikely to receive zoning to PUD or CM that would allow a marina facility. Therefore the property was scored a 0 for zoning. The property is currently undeveloped and received a score of 10 for the willing seller criteria.

Based on the criteria above the M + I Regional Properties LLC Property scored 294 (Table 7).

#### Site 8. Troutman Property

The 188.73± acre property consists of six parcels (Strap Numbers 10-46-23-00-00006.0000, 10-46-23-00-00004.0030, 10-46-23-00-00004.0010, 10-46-23-00-00005.0000, 10-46-23-00-00004.1000, and 11-46-23-00-00002.0000) located in Punta Rassa within portions of

Sections 10 and 11, Township 46 South, Range 23 East (Figure 9). Based on a review of the Lee County Property Appraiser's website the property is bordered by McGregor Boulevard to the north and west, undeveloped privately and publicly owned mangrove wetlands to the east, and San Carlos Bay to the south. There appears is upland access to the site from McGregor Boulevard. The scoring of this property is as follows.

The property is located on the shore of the San Carlos Bay on the outside of the Sanibel Causeway which we are considering the limits of the Gulf of Mexico for this analysis. The property is therefore considered to be located on the Gulf of Mexico and appears to have riparian rights, therefore it scored a 10 for location (Table 9). At 188.73± acres, the property is larger than the optimum size and is scored a 7 for the size criteria. The water along this shoreline is shallow for a distance of more than 1,000 feet from the property line. Dredging a channel in excess of a thousand feet in length through sovereign submerged lands would be necessary for marina access and would require proprietary approval from TIITF. This area of bay bottom consists of sand/silt/shell with scattered shoal grass. San Carlos Bay is a Class II Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 0 for navigational access. The property is configured such that there is 4,280± linear feet of shoreline along the bay. In order to design a functional marina that would meet SFWMD flushing criteria, a flow through design that would connect the on-site tidal creek to Punta Rassa Cove would be necessary to accommodate a sheltered basin. The amount of dredging in the bay, which is shallow in this location, would be substantial and would require prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 8. Site 8 (Troutman Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	7	63
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	10	50
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>263</b>

According to the Soil Survey of Lee County, Florida, the property contains three soil types. Two of the three soil types, which represent a majority of the property, are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the majority of the site as mangrove. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the majority of the site appears to be either mangrove or high salt marsh wetlands. Approximately 25.8 acres of the mangrove wetlands appear to have been mosquito ditched prior to 1966. A 5.2± acre area of mangrove die off is located in the southern portion of the property. This die off appears to have begun in 2007. An additional 4.8± acres of mangrove was cleared prior to 1984 and has become re-

vegetated by mangroves. A narrow upland berm vegetated by exotic plant species is present paralleling portions of the shoreline. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost entirely in wetlands the majority of which are relatively undisturbed high quality mangroves and salt marsh. Assuming the 80 acre development footprint could be placed in the site's 3.9 acres of uplands (FLUCCS 450) and 4.8 acres of disturbed mangrove wetlands (FLUCCS 612D), approximately 71.3 acres of impacts to pristine mangrove wetlands (FLUCCS 612) would be necessary. Therefore, the property is scored a 0 for the wetland criteria.

The property is located along McGregor Boulevard providing upland access and therefore the property received a score of 10 for this criteria. Lee County Utilities provides potable water and sanitary sewer service to the adjacent property to the west and would be capable of serving this property. Electric power by Florida Power & Light and telephone and cable service by CenturyLink and/or Comcast are also readily available. It appears that these services could also be extended into the Troutman Property resulting in a score of 10.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 4,280 feet the property has the potential to have more than the minimum number of required slips (145) for the proposed development pursuant to the Lee County Manatee Protection Plan. Approximately two acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into a sheltered marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. This property's location within the Coastal High Hazard Zone, proximity to McGregor Boulevard, and existing AG zoning would cause it to be unlikely to be zoned PUD or CM at a level of intensity to support the residential mixed use development, the dockage and marina proposed for the subject property. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped and received a score of 10 for the willing seller criteria.

Based on the criteria above the Troutman Property scored 263 (Table 8).

#### Site 9. Brandenburg Property

The 193.45± acre property consists of five parcels (Strap Numbers 28-44-24-C1-00002.0000, 28-44-24-C1-00002.0020, 29-44-24-C2-00001.0070, 29-44-24-C2-00001.0040, and 29-44-24-C2-00001.0010) located in southeast Cape Coral within portions of Sections 28 and 29, Township 44 South, Range 24 East (Figure 10). Based on a review of the Lee County Property Appraiser's website the property is bordered by existing single family homes, multi-family development, and a canal to the north, the Caloosahatchee River to the east, undeveloped wetlands owned by the State of Florida (Four Mile Cove Ecological Park) to the

south, and existing multi-family development to the west. There is upland access to the site from Four Mile Cove Parkway to the south. The scoring of this property is as follows.

The property is located on the west shore of the Caloosahatchee River just north of the Midpoint Bridge approximately 13.8 miles from the Gulf of Mexico and a boat would need to travel approximately 42 minutes to reach the gulf. The property also appears to have riparian rights, and is therefore scored a 3 for location (Table 9). At 193.45± acres, the property is larger than the optimum size and is scored a 7 for the size criteria. According to the Lee County Property Appraiser's website there is an appropriately sized navigational channel along the property's north boundary that currently serves the home sites along the south side of Coral Point Drive. This portion of the Caloosahatchee River is a Class III Water and is not part of an Aquatic Preserve or OFW. Therefore, the property scores a 10 for navigational access. The property is configured such that there is 6,350± linear feet of shoreline along the river, 1,050± linear feet of shoreline along a tidal creek, and 1,750± linear feet of shoreline along the existing canal. In order to design a protected functional marina that would meet SFWMD flushing criteria, extensive dredging of the privately owned river and the tidal creek bottom to the southeast and mangrove wetlands would be necessary to create an oxbow type marina basin. The number of marginal docks that could potentially be constructed along the canal on the north property line would not meet the minimum number of dock (145) required for the project. Therefore, the property is scored a 0 for this criteria.

Table 9. Site 9 (Brandenburg Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	3	30
Size	9	7	63
Navigational Access	8	10	80
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	10	50
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	5	10
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>283</b>

According to the Soil Survey of Lee County, Florida, the property contains three soil types. Two of the three soil types, which are located in the western and northwestern portion of the property, are typically associated with upland flatwoods and upland flatwoods that have been disturbed by filling activities. The remaining soil type, which is located in the central and eastern portions of the property, is typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the western third of the site as upland with the remainder of the site being either mangrove or saltwater marsh. This property received a SFWMD ERP in 1999 under the name of Sailport and was the subject of a second ERP application in 2005 under the name of Paradise Preserve. The wetland mapping contained in the 2005 application indicated that there was approximately 99.4 acres of wetlands (51.7± acres of mangroves, 39.0± acres of leather fern marsh, 1.4± acres of mixed

wetland hardwoods, and 7.3± acres of exotic dominated wetlands). Approximately 20.6 acres of river bottom and mosquito ditches also occur on the property. The remainder of the site was depicted as containing 33.3± acres of native uplands and 40.1± acres of disturbed uplands. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, site conditions do not appear to have changed significantly from 2005. The Sailport development permitted by the SFWMD in 1999 contained 206± single family home sites and impacted 6.8± acres of lower quality wetlands in the western portion of the site. No boat slips were authorized but the permit stated that there was a potential for 88 single family slips in the northern canal pursuant to the rules at that time. The 1999 ERP has expired and it is not known if Sailport ever received a COE permit for the proposed plan of development. The 2005 application Paradise Preserve site plan contained 246± single family home sites and a 150 slip marina in the Caloosahatchee River that would impact 69.0± acres of wetlands. This application was withdrawn by the applicant when it became apparent that the permit was going to be denied by the SFWMD. It is not known if Paradise Preserve ever received a COE permit for the proposed plan of development. Based on the information above, the development of this property to create 260 to 350 residential units and 145 to 200 boat slips would result in significant impacts to the wetlands on-site the majority of which are relatively undisturbed high quality mangroves and leather fern marsh. Therefore, the property is scored a 0 for the wetland criteria.

Four Mile Cove Parkway is located immediately south of the property and was shown as the access point for the 1999 and 2005 site plans providing upland access and therefore the property received a score of 10 for this criteria. Infrastructure has been provided to the existing homes in the area. It appears that these services could also be extended into the Brandenburg Property resulting in a score of 10.

Based on review of recent aerial photography and the 2005 mapping, there appears to be high quality upland habitat on the western portion of the property. A survey of these uplands by Paradise Preserve's consultant identified numerous gopher tortoise burrows and therefore it is presumed that eastern indigo snakes could also be on-site. A bald eagle nest (LE-067) is located in the uplands in the western portion of the property. This nest is currently active. The BGEPA prohibits the take or disturbance of bald eagles and requires certain setbacks from the nest for development imposing a constraint of the site plan design (i.e. FWS and FWC would not be likely to approve development within the 330' zone of the nest). The property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 9,150 feet and a slip allotment of three slips per 100 feet the property has the potential to have 273± slips pursuant to the Lee County Manatee Protection Plan. This substantially exceeds the minimum number of required slips for the proposed development. According to the Lee County Property Appraiser's website, it appears that no dredging in critical smalltooth sawfish habitat would be required to construct a row of marginal docks in the existing canal. However, substantial impacts would be required for a marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact historical resources or critical smalltooth sawfish habitat (providing all the slips are located in the existing canal) and would meet the criteria of the Lee County Manatee Protection Plan. However, such a development might impact the bald eagle nest and result

in the complete development of the upland pine flatwoods (occupied gopher tortoise and indigo snake habitat). Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned R1A. The zoning would need to be changed to PUD or CM in order to allow the proposed development. However, in light of the existing adjacent high rise and marina parcel uses a rezoning is likely to be approved. Therefore, the property was scored a 5 for zoning. The property is currently undeveloped and the property received a score of 10 for the willing seller criteria.

Based on the criteria above the Brandenburg Property scored 283 (Table 9).

#### Site 10. M. Peterson Property

The 120.45± acre property consists of two parcels (Strap Number 11-45-22-00-00003.0010 and 12-45-22-00-00001.0000) located east of Pine Island in Matlacha Pass within a portion of Sections 11 and 12, Township 45 South, Range 22 East (Figure 13). Based on a review of the Lee County Property Appraiser's website the property is surrounded by the waters of Matlacha Pass. There does not appear to be any existing upland access the site. The scoring of this property is as follows.

The property is located within Matlacha Pass approximately 8.9 miles from the Gulf of Mexico with an estimated boat travel time to the Gulf of Mexico of 25 minutes. The property appears to have riparian rights and is therefore scored a 5 for location (Table 10). At 120.45± acres, the property is within the optimum size range and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website there is an appropriately sized navigational channel 1,500± feet to the east of the parcel. The submerged bottom between the existing channel and the property consists of sand/silt/shell with extensive turtle grass and shoal grass. Water depths adjacent to the property are estimated to be less than two feet in depth. Dredging a new 50± feet wide channel 1,500± feet in length through sovereign submerged lands would be necessary for marina access and would require proprietary approval from the TIITF. This portion of Matlacha Pass is a Class II Water and is part of the of Matlacha Pass Aquatic Preserve. Therefore the property scores a 0 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible but would require extensive dredging of mangroves and submerged lands with prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 10. Site 10 (M. Peterson Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	5	50
Size	9	10	90
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	0	0
Infrastructure	4	0	0
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0

CRITERIA	WEIGHTING	SCORE	POINTS
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>150</b>

According to the Soil Survey of Lee County, Florida, the property contains one soil type which is typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the majority of the site as mangrove. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the entire site is undisturbed mangrove wetlands. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur entirely in undisturbed high quality mangroves. An 80 acre development footprint would impact 80 acres of pristine mangroves (FLUCCS 612) onsite. A minimum of two acres of impacts to seagrass meadows offsite would be required to dredge the access channel into a sheltered marina within the parcel. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland access to the property would be from Stringfellow Road to the west. This would require crossing more than 2,000 feet of mangrove wetlands and open water of the Matlacha Pass Aquatic Preserve. It is unlikely that all of the Federal, State, and County authorizations required for such a crossing could be obtained. Therefore the property received a score of 0 for this criteria. Infrastructure is not present at the property line. Given the location and access issues described above, it is unlikely that such services could be cost effectively extended to the property and therefore scored a 0 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts that the property is located within a wood stork core foraging area and fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 17,080± feet for the mangrove islands and a slip allotment of at least five slips per 100 feet the property has the potential to have 1,495± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Approximately two acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into the marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would likely not meet the criteria of the Lee County Manatee Protection Plan due to significant seagrass impacts. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Since this property does not have an approved/grandfathered development permit, and in light of Lee Plan Policy 14.2.2, its further development would be limited to single family residential structures. Additionally, in light of Lee Plan Policies 14.1.1 and 14.1.5 the property could not be rezoned to allow for a marina and dredged access channel to open water. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.



Based on the criteria above the M. Peterson Property scored 150 (Table 10).

#### Site 11. J. Freeman Property

The 130.21± acre property consists of a single parcel (Strap Number 21-45-22-00-00001.0000) located in southwest Pine Island within a portion of Section 21, Township 45 South, Range 22 East (Figure 13). Based on a review of the Lee County Property Appraiser's website the property is bordered by Pine Island Sound to the west and by predominately public owned mangrove wetlands to the north, east, and south. There does not appear to be any existing upland access to the site from Stringfellow Road (the main north - south road on Pine Island). The scoring of this property is as follows.

The property is located on the east shore of the Pine Island Sound approximately 5.1 miles from Redfish Pass and the Gulf of Mexico with an estimated boat travel time of nine minutes. The property appears to have riparian rights and therefore scored a 10 for location (Table 11). At 130.21± acres, the property is within the optimum size range and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website there is no appropriately sized navigational channel within several thousand feet. The submerged bottom between the existing channel and the property consists of sand/silt/shell with extensive turtle grass and shoal grass. Water depths adjacent to the parcels are estimated to be less than two feet in depth. Dredging a new 50± feet wide channel several thousand feet in length through sovereign submerged lands would be necessary for marina access and would require proprietary approval from the TIITF. This portion of Pine Island Sound is a Class II Water and is part of the Pine Island Sound Aquatic Preserve. Therefore, the property scores a 0 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible but would require extensive dredging of mangroves and submerged land with prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 11. Site 11 (J. Freeman Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	10	90
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	0	0
Infrastructure	4	0	0
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>200</b>

According to the Soil Survey of Lee County, Florida, the property contains two soil types. Both soil types are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the entire site as mangrove. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the entire site is

mangrove wetlands. Several mangrove die off areas currently totaling 9.0± acres are located across the property. The size of these die off areas were different in 1998 indicating that some areas are naturally restoring while die off is expanding in others. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur entirely in relatively undisturbed high quality mangroves. An 80 acre development footprint would impact 72 acres of pristine mangroves (FLUCCS 612) onsite assuming that the site plan could be designed to impact the eight acres of disturbed mangrove (FLUCCS 612D). A minimum of five acres of impacts to seagrass meadows offsite would be required to dredge the access channel into a sheltered marina within the parcel. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland access to the property would be from Stringfellow Road to the east. The land east of the property is a County owned preserve and therefore permission from the County to construct an access road for the development of the J Freeman Property would need to be obtained. Therefore the property received a score of 0 for this criteria. Infrastructure is not present at the property line. Given the location and access issues described above, it is unlikely that such services could be cost effectively extended to the property and therefore scored a 0 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 6,240± feet for the main parcel and 23,670± feet for the mangrove islands and a slip allotment of at least five slips per 100 feet the property has the potential to have 1,495± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Approximately five acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into the marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would likely not meet the criteria of the Lee County Manatee Protection Plan due to significant seagrass impacts. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Since this property does not have an approved/grandfathered development permit, and in light of Lee Plan Policy 14.2.2, it's further development would be limited to single family residential structures. Additionally, in light of Lee Plan Policies 14.1.1 and 14.1.5 the property could not be rezoned to allow for a marina and dredged access channel to open water. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the J. Freeman Property scored 200 (Table 11).

#### Site 12. N. Freeman Property

The 177.00± acre property consists of a single parcel (Strap Number 16-45-22-00-00003.0000) located in southwest Pine Island within a portion of Section 16, Township 45

South, Range 22 East (Figure 13). Based on a review of the Lee County Property Appraiser's website the property is bordered by undeveloped wetlands to the north and south, a recently cleared residential development (Windjammer Point) and County owned uplands/wetlands (Lee County Pine Island Flatwoods Preserve) to the east, and Pine Island Sound to the west. There does not appear to be any existing upland access to the site from Stringfellow Road (the main north - south road on Pine Island). The scoring of this property is as follows.

The property is located on the east shore of the Pine Island Sound approximately 5.1 miles from Redfish Pass and the Gulf of Mexico with an estimated boat travel time of nine minutes. The property appears to have riparian rights and therefore scored a 10 for location (Table 12). At 177.00± acres, the property is larger than the optimum size and is scored a 7 for the size criteria. According to the Lee County Property Appraiser's website the closest appropriately sized navigational channel to the property is 2,100± feet to the northwest. The submerged bottom between the existing channel and the property consists of sand/silt/shell with extensive turtle grass and shoal grass. Water depths are estimated to be less than two feet in depth. Dredging a 50± feet wide extension of the existing channel through 2,100± linear feet of sovereign submerged lands would be necessary for marina access and would require proprietary approval from the TIITF. This portion of Pine Island Sound is a Class II Water and is part of the Pine Island Sound Aquatic Preserve. Therefore, the property scores a 0 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible but would require extensive dredging of mangroves and submerged land with prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 12. Site 12 (N. Freeman Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	7	63
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	0	0
Infrastructure	4	0	0
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>173</b>

According to the Soil Survey of Lee County, Florida, the property contains two soil types. Both soil types are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the entire site as mangrove. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the entire site is mangrove wetlands. Several mangrove die off areas currently totaling 27.7± acres are located across the property. The size of these die off areas were different in 1998 indicating that some areas are naturally restoring while die off is expanding in others. The development

of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost entirely in relatively undisturbed high quality mangroves. An 80 acre development footprint would impact 67.7 acres of pristine mangroves (FLUCCS 612) onsite assuming that the site plan could be designed to impact the 12.3 acres of disturbed mangrove (FLUCCS 612D). A minimum of five acres of impacts to seagrass meadows offsite would be required to dredge the access channel into a sheltered marina within the parcel. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland access to the property would be from Stringfellow Road to the east. The majority of the land east of the property is a County owned preserve and therefore permission from the County to construct an access road for the development of the N. Freeman Property would need to be obtained. Based on a review of the Lee County Property Appraiser's website the only other potential upland access to the property would be through the roadway within Windjammer Point. However, such a connection would need to cross mangrove wetlands under two separate ownerships. A portion of those wetlands are located within preservation area for Windjammer Point required by Lee County. Therefore, the property received a score of 0 for this criteria. Infrastructure is not present at the property line. Given the location and access issues described above, it is unlikely that such services could be cost effectively extended to the property and therefore scored a 0 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 6,950± feet for the main parcel and 12,850± feet for the mangrove islands and a slip allotment of at least five slips per 100 feet the property has the potential to have 990± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Approximately five acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into the marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would likely not meet the criteria of the Lee County Manatee Protection Plan due to significant seagrass impacts. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Since this property does not have an approved/grandfathered development permit, and in light of Lee Plan Policy 14.2.2, further development would be limited to single family residential structures. Additionally, in light of Lee Plan Policies 14.1.1 and 14.1.5 the property could not be rezoned to allow for a marina and dredged access channel to open water. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the N. Freeman Property scored 173 (Table 12).

### Site 13. Hill Property

The 200.49± acre property consists of two parcels (Strap Numbers 09-45-22-00-00002.0000 and 09-45-22-00-00002.0610) located in southwest Pine Island within a portion of Section 9, Township 45 South, Range 22 East (Figure 14). Based on a review of the Lee County Property Appraiser's website the property is bordered by undeveloped mangrove wetlands to the north and south, residential development (Flamingo Bay and Pine Island Cove) to the east, and Pine Island Sound to the west. Other than through the residential streets of these two developments, there does not appear to be any existing access to the site from Stringfellow Road (the main north - south road on Pine Island). The scoring of this property is as follows.

The property is located on the east shore of the Pine Island Sound approximately 5.1 miles from Redfish Pass and the Gulf of Mexico with an estimated boat travel time of nine minutes. The property appears to have riparian rights and therefore scored a 10 for location (Table 13). At 200.49± acres, the property is larger than the optimum size and is scored a 5 for the size criteria. According to the Lee County Property Appraiser's website an appropriately sized navigational channel occurs either on or immediately adjacent to the property. However, this channel ends prior to reaching the deeper waters of Pine Island Sound. Extensive dredging would be required to extend the existing channel through the Pine Island Sound Aquatic Preserve. Therefore, the property scores a 0 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible but would require extensive dredging of mangroves and submerged land with prior TIIFT proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 13. Site 13 (Hill Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	5	45
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	3	15
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>210</b>

According to the Soil Survey of Lee County, Florida, the property contains four soil types. Two of soil types, which comprise a majority of the property, are typically associated with mangrove or salt marsh wetlands. The remaining two soil types are areas of fill. The NWI mapping of the property depicts almost the entire site as mangrove. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the vast majority of the site is mangrove wetlands. Areas vegetated by exotic plant species, apparently on spoil excavated from the existing channels, are present in the northern portion of the site. Several small areas of mangrove die off areas, currently totaling 1.7± acres, are

located across the property. The size of these die off areas were similar in 2002. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost entirely in relatively undisturbed high quality mangroves. An 80 acre development footprint would impact 72.1 acres of pristine mangroves (FLUCCS 612) onsite assuming that the site plan could be designed to impact the 6.1 acres of uplands (FLUCCS 450 and 743) 1.8 acres of disturbed mangrove (FLUCCS 612D). A minimum of two acres of impacts to submerged land likely to include seagrass meadows offsite would be required to dredge the access channel to a sheltered marina within the parcel. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland access to the property from Stringfellow Road would be through the residential streets of Flamingo Bay and Pine Island Cove to the east. It is not known if the Hill Property has legal access through these communities or if such access could be obtained if it does not exist. However, given the property's location on Pine Island, the property received a score of 3 for this criteria. Infrastructure is present at the Flamingo Bay and Pine Island Cove communities. The GPIWA serves the entire island and has adequate production and transmission capacity to serve this property. Lee County Utilities operates a wastewater treatment (sanitary sewer) facility that serves a limited number of properties on Pine Island. This property may be eligible for service, but alternatively would have the opportunity to develop an on-site wastewater treatment system in a manner similar to several other properties on Pine Island. Electric power by LCEC and telephone and cable by CenturyLink and/or Comcast are also readily available for this property. Presuming that the access issue described above is favorably resolved, these services could also be extended into the Hill Property resulting in a score of 10 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 19,800± feet for the main parcel and 7,530± feet for the mangrove islands and a slip allotment of at least five slips per 100 feet the property has the potential to have 990± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Approximately two acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into the marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would likely not meet the criteria of the Lee County Manatee Protection Plan due to significant seagrass. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Since this property does not have an approved/grandfathered development permit, and in light of Lee Plan Policy 14.2.2, further development would be limited to single family residential structures. Additionally, in light of Lee Plan Policies 14.1.1 and 14.1.5 the property could not be rezoned to allow for a marina and dredged access channel to open water. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the Hill Property scored 210 (Table 13).

#### Site 14. Nordic Property

The 213.10± acre property consists of multiple parcels (Strap Numbers 04-45-22-00-00010.0000, 04-45-22-00-0001B.0000, 04-45-22-00-0001A.0000, 03-45-22-00-00002.004A, 03-45-22-00-00002.0040, 04-45-22-00-00010.1070, 04-45-22-00-00010.1060, 04-45-22-00-00010.1050, 04-45-22-00-00010.1020, 04-45-22-00-00010.1010, 04-45-22-00-00010.1120, 04-45-22-00-00010.1130, 04-45-22-00-00010.1140, 04-45-22-00-00010.1040, 04-45-22-00-00010.1110, 04-45-22-00-00010.1150, 04-45-22-00-00010.1080, 04-45-22-00-00010.1090, 04-45-22-00-00010.1100, 04-45-22-00-00010.1030, 03-45-22-00-00002.004D, 03-45-22-00-00002.004B, and 03-45-22-00-00002.004E) located in southwest Pine Island within a portion of Sections 3 and 4, Township 45 South, Range 22 East (Figure 15). Another parcel (under third party ownership) is present within the northeastern portion of the property. Based on a review of the Lee County Property Appraiser's website the property is bordered by scattered single family homes and undeveloped mangrove wetlands to the north, Stringfellow Road to the east, agricultural and aquicultural lands to the south, and Pine Island Sound to the west. There appears is access to the site from Stringfellow Road. The scoring of this property is as follows.

The property is located on the east shore of the Pine Island Sound approximately 5.1 miles from Redfish Pass and the Gulf of Mexico with an estimated boat travel time of nine minutes. The property appears to have riparian rights and therefore scored a 10 for location (Table 14). At 213.10± acres, the property is larger than the optimum size and is scored a 5 for the size criteria. According to the Lee County Property Appraiser's website there is no appropriately sized navigational channel within several thousand feet of the property. The submerged bottom between the existing channel and the property consists of sand/silt/shell with extensive turtle grass and shoal grass. Water depths adjacent to the parcels are estimated to be less than two feet in depth. Dredging a new 50± feet wide channel several thousand feet in length through sovereign submerged lands would be necessary for marina access and would require proprietary approval from the TIITF. This portion of Pine Island Sound is a Class II Water and is part of the Pine Island Sound Aquatic Preserve. Therefore, the property scores a 0 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible but would require extensive dredging of mangroves and submerged land with prior TIITF proprietary approval. Therefore, the property is scored a 0 for this criteria.

Table 14. Site 14 (Nordic Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	5	45
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	0	0
Wetlands	6	0	0
Upland Access	5	3	15
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0

CRITERIA	WEIGHTING	SCORE	POINTS
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>210</b>

According to the Soil Survey of Lee County, Florida, the property contains four soil types. Two of soil types, which comprise a majority of the property, are typically associated with mangrove or salt marsh wetlands. The remaining two soil types are typically associated with upland pine flatwoods. The NWI mapping of the property depicts the entire western portion of the site mangrove wetlands with the eastern half of the property as uplands. Based on photo interpretation of current color aerial photography and aerial reconnaissance via helicopter, the western portion of the property is mangrove wetlands. Several small areas of mangrove die off areas currently totaling 8.1± acres are located across the property. The northeastern portion of the site consists of upland pine flatwoods that has been partially cleared for a future residential development (The Villages). The southeastern portion of the property is a palm nursery. The development of this property to create 260 to 350 residential units could occur entirely in uplands. However, in order to excavate a marina to provide 145 to 200 boat slips extensive dredging in undisturbed mangrove and/or shallow bay bottom would be necessary. A minimum of two acres of impacts to seagrass meadows would be required to dredge the access channel into a sheltered marina within the parcel. An additional eight acres of dredging within the site's mangroves would be necessary for the marina. Therefore, the property is scored a 0 for the wetland criteria.

The property has access from Stringfellow Road. However, given the property's location on Pine Island, the property received a score of 3 for this criteria. Infrastructure has been provided to the existing homes along Stringfellow Road. The GPIWA serves the entire island and has adequate production and transmission capacity to serve this property. Lee County Utilities operates a wastewater treatment facility that serves a limited number of properties on Pine Island. This property may be eligible for service, but alternatively would have the opportunity to develop an on-site wastewater treatment (sanitary sewer) system in a manner similar to several other properties on Pine Island. Electric power by LCEC and telephone and cable by CenturyLink and/or Comcast are also readily available for this property. It appears that these services could also be extended into the Nordic Property resulting in a score of 10.

Based on review of recent aerial photography, there does appear to be good quality upland pine flatwoods habitat on The Villages portion of the property. However, based on the existing Lee County Development Order, a majority of that flatwoods has local government approval to be developed. The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. A Bald Eagle Nest LE-032 is located in the northwestern portion of the property (Figure 15). This nest is active. A second bald eagle nest is located off-site to the south. The BGEPA prohibits the take or disturbance of bald eagles and requires certain setbacks from the nest for development imposing a constraint of the site plan design (i.e. FWS and FWC would not be likely to approve development within the 330' zone of the nest). Given the approximate shoreline length of 2,430± feet for the main parcel and 5,360± feet for the mangrove islands and a slip allotment of at least five slips per 100 feet the property has the potential to have 990± slips pursuant to the Lee County Manatee Protection Plan. This is



substantially above the minimum number of required slips (145) for the proposed development. Approximately two acres of impacts to smalltooth sawfish critical habitat would be required to dredge the access channel into the marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat (not already authorized to be developed by Lee County) or historical resources. However, such a development would likely not meet the criteria of the Lee County Manatee Protection Plan due to significant seagrass impacts. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned RM-2 in the northeastern portion of the site and AG-2 for the remainder of the property. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Since the entire property does not have an approved/grandfathered development order that meets the Overall Project Purpose, and in light of Lee Plan Policy 14.2.2, it's further development would be limited to single family residential structures. Additionally, in light of Lee Plan Policies 14.1.1 and 14.1.5 the property could not be rezoned to allow for a marina and dredged access channel to open water. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the Nordic Property scored 210 (Table 14).

#### Site 15. Peninsula Sailfish Property

The 109.00± acre property consists of four parcels (STRAP Numbers 17-47-25-B4-00001.0070, 20-47-25-B1-00001.2000, 20-47-25-B1-00001.1000, and 20-47-25-B1-00001.0000) located south of and adjacent to Spring Creek within a portion of Sections 17 and 20, Township 47 South, Range 25 East (Figure 16). Based on a review of the Lee County Property Appraiser's website the property is bordered by undeveloped wetlands to the west and south and Spring Creek to the east and north. There does not appear to be any existing upland access to the site from the south or east. The scoring of this property is as follows.

The property is located on Spring Creek, approximately 2.5 miles from the Gulf of Mexico and a boat would need to travel approximately nine minutes to reach the Gulf of Mexico. The parcel also appears to have riparian rights, and is therefore scored a 10 for location (Table 15). At 109.00± acres, the property is of optimum size and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website the closest appropriately sized navigational channel to the property ranges from 20 - 500± feet to the east of the parcel's east shoreline of Spring Creek depending on location. The submerged bottom between the existing channel and the property consists of sand/silt/shell potentially with turtle grass and shoal grass. Water depths are estimated to be less than two feet in depth in areas furthest from the creek. Extensive dredging along the shoreline and in the north cove for a marina for 145 to 200 boat slips as well as to the creek channel in sovereign submerged lands would be necessary and would require proprietary approval from the TIITF. This portion of Spring Creek is part of the Estero Bay Aquatic Preserve and an OFW. Therefore, the property scores a 0 for navigational access. The property is configured such that a design that would

promote adequate flushing may be possible. Therefore, the property is scored a 10 for this criteria.

Table 15. Site 15 (Peninsula Sailfish Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	10	90
Navigational Access	8	0	0
Marina Flushing and Water Quality	7	10	70
Wetlands	6	0	0
Upland Access	5	0	0
Infrastructure	4	0	0
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>270</b>

According to the Soil Survey of Lee County, Florida, the property contains three soil types. Two soil types are typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts most of the site as mangrove. Based on photo interpretation of current color aerial photography, the exterior of the site is mangrove wetlands with pine flatwoods infested with melaleuca on the interior. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur almost mostly in relatively undisturbed high quality mangroves. The resulting impacts to pristine mangrove wetlands would be approximately 60 acres. Due to the site's geometry, the development footprint would need to extend within 100' of the shore of Spring Creek, causing additional secondary impacts to fish and wildlife. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland accesses to the property would be from Bonita Bay Boulevard to the south or from Pelican's Nest Drive to the north. The land to the south is a preservation area for Bonita Bay and any access from Bonita Bay Boulevard would require crossing through this area. Based on a review of the Lee County Property Appraiser's website the only other potential upland access to the property would be through the roadway within Pelican's Nest which would require a bridge over Spring Creek. To accomplish this, a bridge over or through state owned mangrove wetlands and submerged lands would be necessary. Therefore, the property received a score of 0 for this criteria. Infrastructure is not present at the property line. Given the location and access issues described above, it is unlikely that such services could be cost effectively extended to the property and therefore scored a 0 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts Bald Eagle Nest LE-008 being located in the northwestern portion of the property (Figure 16). It is not known if this nest is currently active due to its location. The BGEPA prohibits the take or disturbance of bald eagles and requires certain setbacks from the nest for development, imposing a

constraint of the site plan design (i.e. FWS and FWC would not be likely to approve development within the 330' zone of the nest). The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 11,568± feet for the main parcel and 6,240± feet for the mangrove islands and a slip allotment of at least five slips per 100 feet the property has the potential to have 890± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Approximately two acres of impacts to smalltooth sawfish critical habitat as well as seagrass beds would be required to dredge the access channel into the marina. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. However, such a development would likely not meet the criteria of the Lee County Manatee Protection Plan due to significant seagrass impacts and depth restrictions. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the Peninsula Sailfish Property scored 270 (Table 15).

#### Site 16. Cora Battista Trust Property

The 96.7± acre property consists of three parcels (STRAP Numbers 25-47-24-B2-00013.0000, 19-47-25-B4-00009.0000, and 30-47-25-B1-00005.0010) located east of Little Hickory Island within a portion of Sections 19 and 30, Township 47 South, Range 25 East and Section 25, Township 47 South, Range 24 East (Figure 17) and is an island in Big Hickory Bay. Based on a review of the Lee County Property Appraiser's website the property is bordered by the state sovereign submerged lands of Big Hickory Bay. There does not appear to be any existing upland access to the site from the east. The scoring of this property is as follows.

The property is located in the west portion of Big Hickory Bay, less than a mile from the Gulf of Mexico with an estimated boat travel time to the Gulf of Mexico of 10 minutes. This property also appears to have riparian rights, and is therefore scored a 10 for location (Table 16). At 96.7± acres, the property is of optimum size and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website the closest appropriately sized navigational channel (Broadway Channel) to the property is directly north and adjacent to the parcel. The submerged bottom between the existing channel and the property consists of sand/silt/shell potentially with turtle grass and shoal grass. Water depths are estimated to be less than two feet in depth in areas at the shore. Minor dredging along the shoreline for a marina for 145 to 200 boat slips in sovereign submerged lands would be necessary and the facility would require proprietary approval from the TIITF. Big Hickory Bay is part of the Estero Bay Aquatic Preserve which is an OFW. Therefore, the property scores a 10 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible. Therefore, the property is scored a 10 for this criteria.

Table 16. Site 16 (Cora Battista Trust Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	10	90
Navigational Access	8	10	80
Marina Flushing and Water Quality	7	10	70
Wetlands	6	0	0
Upland Access	5	0	0
Infrastructure	4	0	0
Uplands, Listed Species, Historical Resources	3	7	21
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>371</b>

According to the Soil Survey of Lee County, Florida, the property contains one soil type. This soil type is typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the site as mangrove wetlands. Based on photo interpretation of current color aerial photography the site is entirely mangrove wetlands. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur in undisturbed high quality mangroves. The resulting impacts to pristine mangrove wetlands would be approximately 80 acres. Due to the site's size and geometry, the development footprint would need to extend to the shore of Big Hickory Bay, causing additional secondary impacts to fish and wildlife. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland access to the property would be from Hickory Boulevard to the west. This potential upland access to the property would be through private property adjacent to Hickory Boulevard which would require a bridge over a portion of Big Hickory Bay. To accomplish this, a bridge over or through state owned mangrove wetlands and submerged lands would be necessary. Therefore, the property received a score of 0 for this criteria. Infrastructure is not present at the property line. Given the location and access issues described above, it is unlikely that such services could be cost effectively extended to the property and therefore scored a 0 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 11,616± feet and a slip allotment of at least five slips per 100 feet the property has the potential to have 580± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Minor impacts to critical smalltooth sawfish habitat or seagrass beds would be required for the facility. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. Therefore, the property received a score of 7 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the Cora Battista Trust Property scored 371 (Table 16).

Site 17. Barron Collier Investments Property

The 95± acre property consists of three parcels (STRAP Numbers 24-47-24-B3-01006.2000, 24-47-24-B3-01006.0000, and 19-47-25-B4-00007.0010) located adjacent to and east and west of Hickory Boulevard within a portion of Section 24, Township 47 South, Range 24 East and Section 19, Township 47 South, Range 25 East (Figure 18). Based on a review of the Lee County Property Appraiser's website the property is bordered by the state sovereign submerged lands of Little Hickory Pass to the south and undeveloped mangrove wetlands to the north. The existing upland access to the site is from Hickory Boulevard. The scoring of this property is as follows.

The property is located on Little Hickory Pass, less than a mile from the Gulf of Mexico with an estimated boat travel time to the Gulf of Mexico of 10 minutes. This property also appears to have riparian rights, and is therefore scored a 10 for location (Table 17). At 95± acres, the property is of optimum size and is scored a 10 for the size criteria. According to the Lee County Property Appraiser's website, the closest appropriately sized navigational channel (Big Hickory Pass and Broadway Channel) to the property is directly south and adjacent to the parcel. The submerged bottom between the existing channel and the property consists of sand/silt/shell potentially with turtle grass and shoal grass. Water depths are estimated to be less than two feet in depth in areas at the shore. Minor dredging along the shoreline for a marina for 145 to 200 boat slips in sovereign submerged lands would be necessary and the facility would require proprietary approval from the TIITF. Big Hickory Bay is part of the Estero Bay Aquatic Preserve which is an OFW. Therefore, the property scores a 10 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible. Therefore, the property is scored a 10 for this criteria.

Table 17. Site 17 (Barron Collier Investments Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	10	90
Navigational Access	8	10	80
Marina Flushing and Water Quality	7	10	70
Wetlands	6	0	0
Upland Access	5	10	50
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10

CRITERIA	WEIGHTING	SCORE	POINTS
TOTAL POINTS			440

According to the Soil Survey of Lee County, Florida, the property contains one soil type. This soil type is typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the site as mangrove wetlands and open water. Based on photo interpretation of current color aerial photography the site is mangrove wetlands and open waters of Big Hickory Bay. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur in undisturbed high quality mangroves and submerged land potentially including sea grass (assuming the Lee County Property Appraiser's Website correctly shows the property boundary). The resulting impacts to pristine mangrove wetlands and submerged land would be approximately 80 acres. Due to the site's size and geometry, the development footprint would need to extend into Big Hickory Bay, causing additional secondary impacts to fish and wildlife. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland access to the property would be from Hickory Boulevard. Therefore, the property received a score of 10 for this criteria. Infrastructure is present at the property line. Given the location and access issues described above, it is possible that such services could be cost effectively extended to the property and therefore scored a 10 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts Bald Eagle Nest LE-083 being located in the southern portion of the property (Figure 18). This nest was active as of the last known observation in 2012. The BGEPA prohibits the take or disturbance of bald eagles and requires certain setbacks from the nest for development, imposing a significant constraint of the site plan design (i.e. FWS and FWC would not be likely to approve development within the 330' zone of the nest). The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 13,926± feet and a slip allotment of at least five slips per 100 feet the property has the potential to have 695± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Significant fill impacts to critical smalltooth sawfish habitat and seagrass beds would be required for the development. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the Barron Collier Investments Property scored 440 (Table 17).

#### Site 18. CDC Land Investments Property

The 154.1± acre property consists of two parcels (STRAP Numbers 19-47-25-B4-00007.0000 and 24-47-24-B3-01006.1000) located adjacent to and east of Hickory Boulevard within a portion of Section 19, Township 47 South, Range 25 East and Section 24, Township 47 South, Range 24 East (Figure 19). Based on a review of the Lee County Property Appraiser's website, the property is bordered by the state sovereign submerged lands of Broadway Channel to the south and Big Hickory Bay to the east and undeveloped mangrove wetlands to the north and south. The existing upland access to the site is from Hickory Boulevard. The scoring of this property is as follows.

The property is located in the west portion of Big Hickory Bay, less than a mile from the Gulf of Mexico with an estimated boat travel time to the Gulf of Mexico of 10 minutes. This property also appears to have riparian rights, and is therefore scored a 10 for location (Table 18). At 154.1± acres, the property is larger than the optimum size and is scored a 7 for the size criteria. According to the Lee County Property Appraiser's website, the closest appropriately sized navigational channel (Broadway Channel) to the property is directly south and adjacent to the parcel. The submerged bottom between the existing channel and the property consists of sand/silt/shell potentially with turtle grass and shoal grass. Water depths are estimated to be less than two feet in depth in areas at the shore. Minor dredging along the shoreline for a marina for 145 to 200 boat slips in sovereign submerged lands would be necessary and the facility would require proprietary approval from the TIITF. Big Hickory Bay is part of the Estero Bay Aquatic Preserve which is an OFW. Therefore, the property scores a 10 for navigational access. The property is configured such that a design that would promote adequate flushing may be possible. Therefore, the property is scored a 10 for this criteria.

Table 18. Site 18 (CDC Land Investments Property) Scoring Matrix

CRITERIA	WEIGHTING	SCORE	POINTS
Location	10	10	100
Size	9	10	90
Navigational Access	8	10	80
Marina Flushing and Water Quality	7	10	70
Wetlands	6	0	0
Upland Access	5	10	50
Infrastructure	4	10	40
Uplands, Listed Species, Historical Resources	3	0	0
County/City Zoning	2	0	0
Willing Seller	1	10	10
<b>TOTAL POINTS</b>			<b>440</b>

According to the Soil Survey of Lee County, Florida, the property contains one soil type. This soil type is typically associated with mangrove or salt marsh wetlands. The NWI mapping of the property depicts the site as mangrove wetlands and open water. Based on photo interpretation of current color aerial photography the site is mangrove wetlands and open waters of Estero Bay. The development of this property to create 260 to 350 residential units and 145 to 200 boat slips would therefore occur in undisturbed high quality mangroves and

submerged land potentially including sea grass (assuming the Lee County Property Appraiser's website correctly shows the property boundary). The resulting impacts to pristine mangrove wetlands and submerged lands would be approximately 80 acres. Due to the site's geometry, the development footprint would need to extend into Big Hickory Bay, causing additional secondary impacts to fish and wildlife. Therefore, the property is scored a 0 for the wetland criteria.

The only potential upland access to the property would be from Hickory Boulevard. Therefore, the property received a score of 10 for this criteria. Infrastructure is present at the property line. Given the location and access issues described above, it is possible that such services could be cost effectively extended to the property and therefore scored a 10 for the infrastructure criteria.

Based on review of recent aerial photography, there does not appear to be any high quality upland habitat on the property. The FWC listed species data base depicts that the fringes of the property and adjacent waters are designated critical habitat for both the smalltooth sawfish and manatee. Given the approximate shoreline length of 12,367± feet and a slip allotment of at least five slips per 100 feet the property has the potential to have 620± slips pursuant to the Lee County Manatee Protection Plan. This is substantially above the minimum number of required slips (145) for the proposed development. Significant fill impacts to critical smalltooth sawfish habitat and seagrass beds would be required for the development. There are no known historical resources on the property. The development of this property that meets the Overall Project Purpose is not anticipated to significantly impact high quality upland habitat or historical resources. Therefore, the property received a score of 0 for this criteria.

According to the Lee County Property Appraiser's website, the property is currently zoned AG-2. The zoning would need to be changed to PUD or CM in order to allow the proposed development. Therefore, the property was scored a 0 for zoning. The property is currently undeveloped. The property received a score of 10 for the willing seller criteria.

Based on the criteria above the CDC Land Investments Property scored 440 (Table 18).

#### IV. Summary

By using the scoring paradigm described above, a site that optimally met all ten criteria would have scored a total of 550 points. The 18 properties scored from a low of 170 points (Site 2, S. Zemel Property) to a high of 440 (Sites 17 and 18, Barron Collier Investments and CDC Land Investments properties) indicating that all sites were less than perfect (Table 19).

Table 19. Alternative Sites Scoring Summary

CRITERIA	SITE 1	SITE 2	SITE 3	SITE 4	SITE 5
Location	50	50	50	50	50
Size	45	90	90	45	90
Navigational Access	40	0	40	0	0
Marina Flushing and Water Quality	0	0	0	0	0
Wetlands	0	0	0	0	0



CRITERIA	SITE 1	SITE 2	SITE 3	SITE 4	SITE 5
Upland Access	50	0	0	15	15
Infrastructure	40	20	0	40	40
Uplands, Listed Species, Historical Resources	0	0	3	0	0
County Zoning	10	0	0	0	0
Willing Seller	10	10	10	10	10
<b>TOTAL POINTS</b>	<b>245</b>	<b>170</b>	<b>199</b>	<b>160</b>	<b>205</b>

CRITERIA	SITE 6	SITE 7	SITE 8	SITE 9	SITE 10
Location	50	100	100	30	50
Size	45	45	63	63	90
Navigational Access	80	40	0	80	0
Marina Flushing and Water Quality	70	0	0	0	0
Wetlands	30	0	0	0	0
Upland Access	50	50	50	50	0
Infrastructure	40	40	40	40	0
Uplands, Listed Species, Historical Resources	9	9	0	0	0
County Zoning	10	0	0	10	0
Willing Seller	10	10	10	10	10
<b>TOTAL POINTS</b>	<b>394</b>	<b>294</b>	<b>263</b>	<b>283</b>	<b>150</b>

CRITERIA	SITE 11	SITE 12	SITE 13	SITE 14	SITE 15
Location	100	100	100	100	100
Size	90	63	45	45	90
Navigational Access	0	0	0	0	0
Marina Flushing and Water Quality	0	0	0	0	70
Wetlands	0	0	0	0	0
Upland Access	0	0	15	15	0
Infrastructure	0	0	40	40	0
Uplands, Listed Species, Historical Resources	0	0	0	0	0
County Zoning	0	0	0	0	0
Willing Seller	10	10	10	10	10
<b>TOTAL POINTS</b>	<b>200</b>	<b>173</b>	<b>210</b>	<b>210</b>	<b>270</b>

CRITERIA	SITE 16	SITE 17	SITE 18
Location	100	100	100
Size	90	90	90
Navigational Access	80	80	80
Marina Flushing and Water Quality	70	70	70
Wetlands	0	0	0
Upland Access	0	50	50
Infrastructure	0	40	40
Uplands, Listed Species, Historical	21	0	0

CRITERIA	SITE 16	SITE 17	SITE 18
Resources			
County Zoning	0	0	0
Willing Seller	10	10	10
<b>TOTAL POINTS</b>	<b>371</b>	<b>440</b>	<b>440</b>

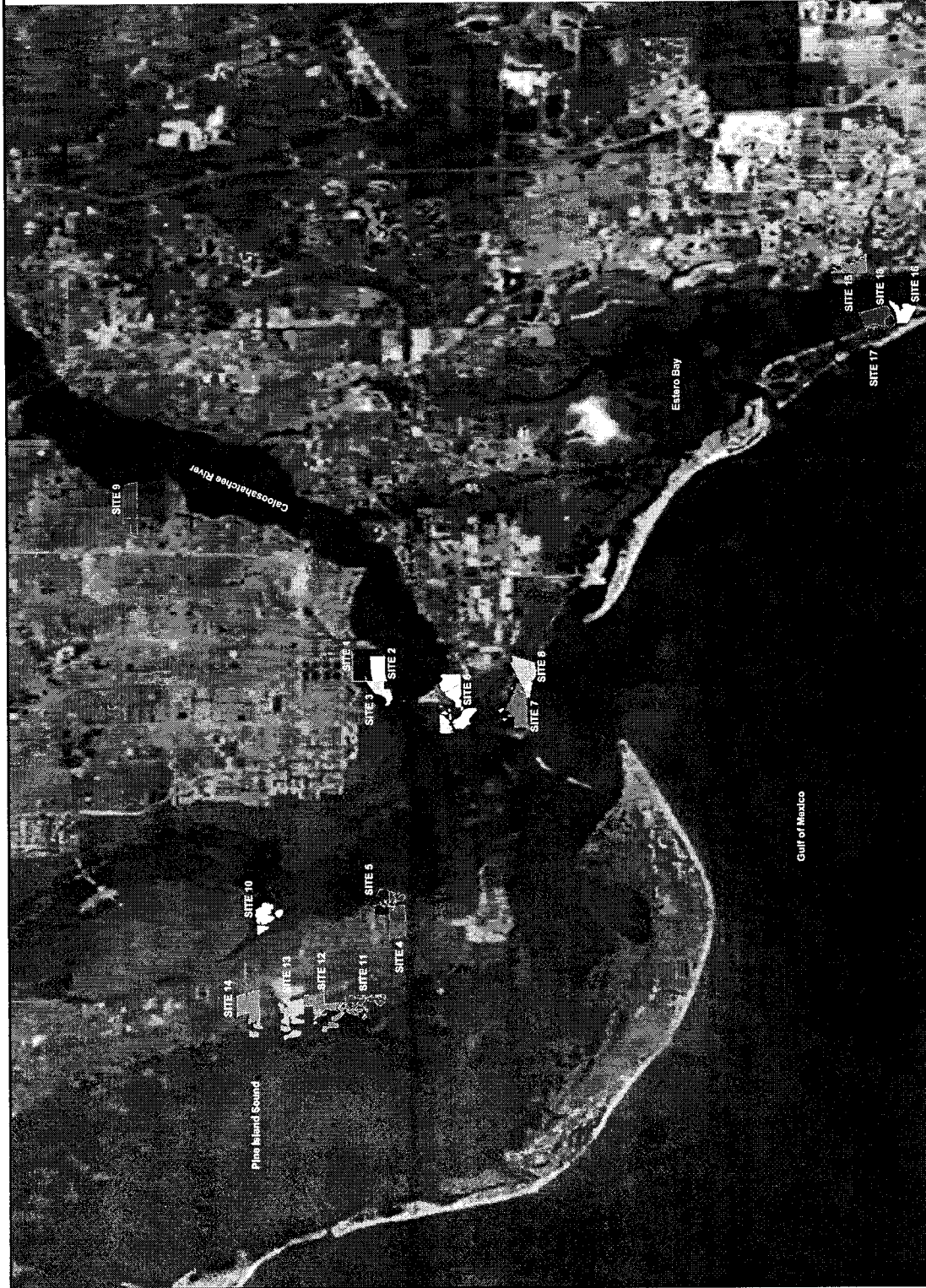
The Applicant was not able to identify a site in the Market Area that consisted entirely of uplands which would satisfy the Overall Project Purpose. Please note that while all 18 sites have been analyzed as summarized above, in order to be considered a practicable alternative, an alternative site must have an identifiable or discernible difference in impacts to the aquatic environment and not have other significant adverse environmental consequences. 40 C.F.R. Section 230.10. According to the Section 404(b)(1) Guidelines, "... where there is no significant or easily identifiable difference in impact, the alternative need not be considered to have 'less adverse' impact, ...". Preamble to Final Rule, *Guidelines for Specification of Disposal Sites for Dredged or Fill Material*, published in the Federal Register at 45 F.R. 85336, 85339 (December 24, 1980 ["Preamble"]) at 85339-85340. Initial focus in the alternatives analysis on impacts to the aquatic ecosystem may limit (or in some instances, eliminate altogether) the number of alternatives that have to be evaluated for practicability (an inquiry that is difficult, time consuming, and costly for applicants). SOP. Therefore, alternatives without the requisite difference in impact to the aquatic environment can be eliminated from further consideration in the alternatives analysis. Based upon the analysis summarized above, sites 3, 5, 7, 8, 10, 11, 12, 13, 15, 16, 17, and 18 would not be considered as an alternative site because the development of these sites to satisfy the Overall Project Purpose would have greater impact to the aquatic environment.

*How was that determined?*

In order to construct a project on Site 1, 2, 4, 9, 14, 15, and 17 that would satisfy the Overall Project Purpose, the Applicant would be required to dredge sovereign submerged lands to create a navigable access channel and a sheltered marina basin, and obtain the necessary TIITF proprietary approvals to undertake such dredging and preempt sovereign submerged lands for a private marina. It is unlikely that such proprietary approvals would be issued by the TIITF. In addition, such dredging would occur in areas that have been designated as Critical Habitat for the smalltooth sawfish. The construction of the project on these sites would either be constricted or require a BGEPA permit from the FWS because of onsite or adjacent bald eagle nests. Project construction would also be required in mangrove and salt marsh wetlands with functional values which exceed those present on the Project Site. Finally, the development of Sites 4, 5, 10, 11, 12, 13 and 14 to meet the Overall Project Purpose would be inconsistent with the Lee County Plan Policies 14.1.1 and 14.1.5 prohibiting the rezoning of this parcel to allow the construction of a marina and dredged access channel. While these sites scored higher than others, they are not considered practicable alternatives in light of the expected adverse impacts to the aquatic environment, other significant adverse environmental consequences to smalltooth sawfish designated critical habitat and/or the bald eagle.

Site 6 (the Project) is capable of being developed to meet the Applicant's Overall Project Purpose. The dredging associated with access channels and the marina basin is located on privately owned lands. The Project can be constructed to avoid any potential of a take or disturbance of a bald eagle and an active bald eagle nest in proximity of the site. Impacts to

smalltooth sawfish designated critical habitat would be limited because of the existing configuration and location of the site. The site contains mangrove wetlands, the historical functions of which have been degraded from prior mosquito ditching, diking, and clearing activities. Therefore, the Applicant maintains that there no other practicable alternatives that are available and capable of being developed "after taking into consideration cost, existing technology, and logistics in light of Overall Project Purpose.



0 6,250 12,500  
SCALE FEET

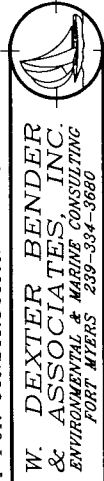
- Site 1. M. Zemel Property
- Site 2. S. Zemel Property
- Site 3. Wiltshire Property
- Site 4. Ft. Myers Broadcasting Property
- Site 5. A. Peterson Property
- Site 6. Eden Oak Property
- Site 7. M & I Regional Property
- Site 8. Troutman Property
- Site 9. Brandenburg Property
- Site 10. M. Peterson Property
- Site 11. J. Freeman Property
- Site 12. N. Freeman Property
- Site 13. Hill Property
- Site 14. Nordic Property
- Site 15. Peninsula Sailfish Parcel
- Site 16. Battista Parcel
- Site 17. Battista Parcel
- Site 18. Battista Parcel

**Notes:**

1. Eden Oak property boundary obtained from Q. Grady Minor and Associates, P.A.  
Remaining property boundaries are approximate and obtained from Lee County Property Appraiser's Website.

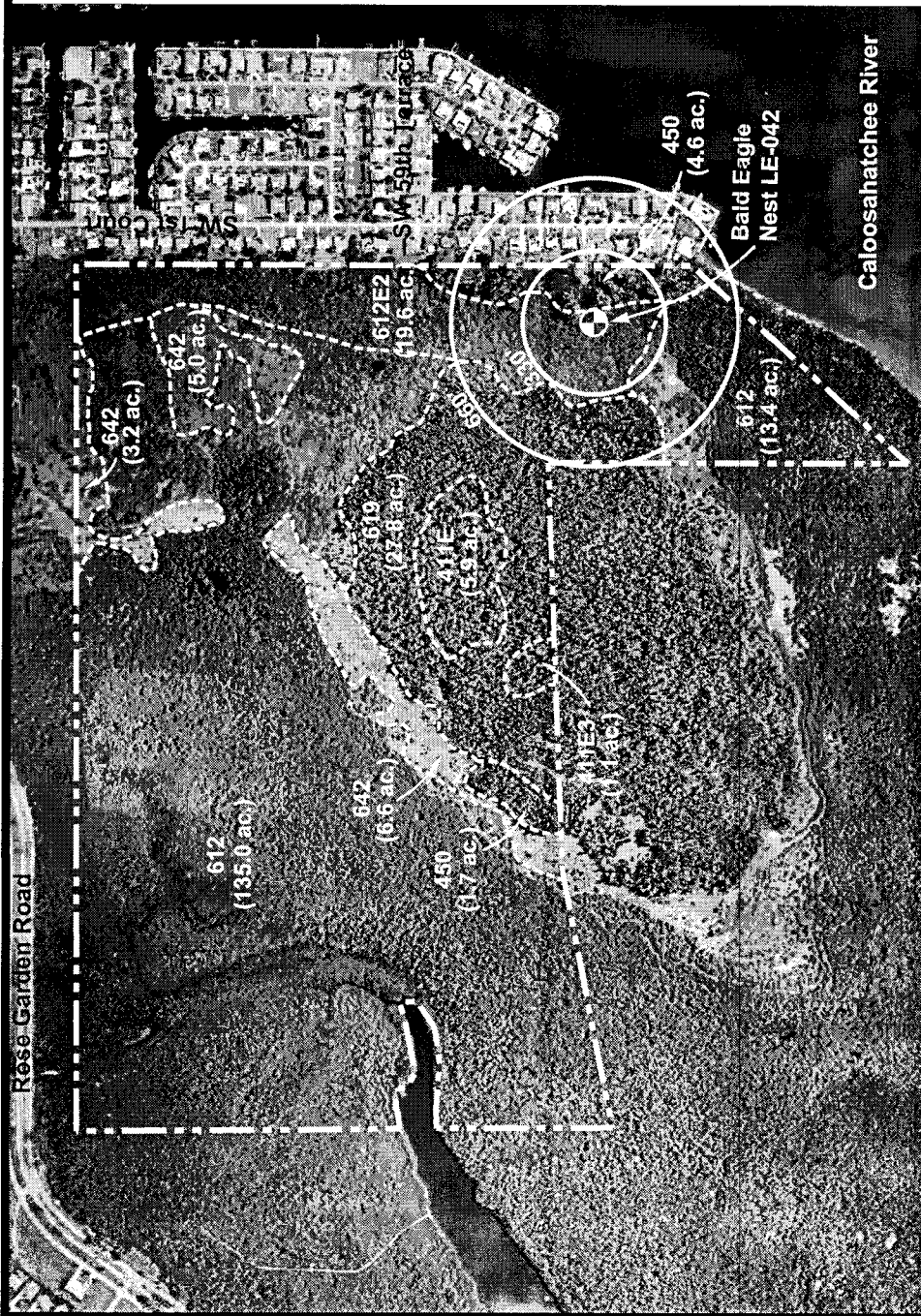
PERMIT USE ONLY, NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN\_OAK\_SITES.DWG



**FIGURE 1. ALTERNATIVE SITES ANALYSIS - KEYSHEET**

**EDEN OAK PRESERVE**



0 400 800  
SCALE FEET

SECTION: 23  
TOWNSHIP: 45 S  
RANGE: 23 E

LATITUDE: 26° 32' 31.7"  
LONGITUDE: 81° 58' 56.4"

FLUCCS	Description	Acreage
411E	Pine Flatwoods Invaded by Exotics (5-9%)	5.9 ac.
411E3	Pine Flatwoods Invaded by Exotics (51-75%)	1.1 ac.
450	Mixed Exotic Upland Forest	6.3 ac.
612	Mangrove Swamps	148.4 ac.
612E2	Mangrove Swamps Invaded by Exotics (26-50%)	19.6 ac.
619	Exotic Wetland Hardwoods	27.8 ac.
642	Saltwater Marshes	14.8 ac.
Total		223.9 ac.

- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
  3. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG

PERMIT USE ONLY, NOT FOR CONSTRUCTION



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

FIGURE 2. SITE 1 (M. ZEMEL PROPERTY)



0 400 800  
SCALE FEET

SECTIONS: 23 and 26  
TOWNSHIP: 45 S  
RANGE: 23 E  
LATITUDE: 26° 32' 11.2"  
LONGITUDE: 81° 59' 6.5"

FLUCCS	Description	Acreage
450	Mixed Exotic Upland Forest	3.4 ac.
612	Mangrove Swamps	78.5 ac.
619	Exotic Wetland Hardwoods	35.8 ac.
642	Saltwater Marshes	3.1 ac.
	Total	120.8 ac.

- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
  3. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY,  
NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG

W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

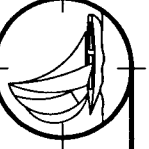
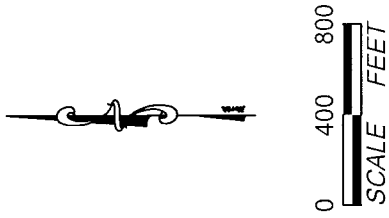
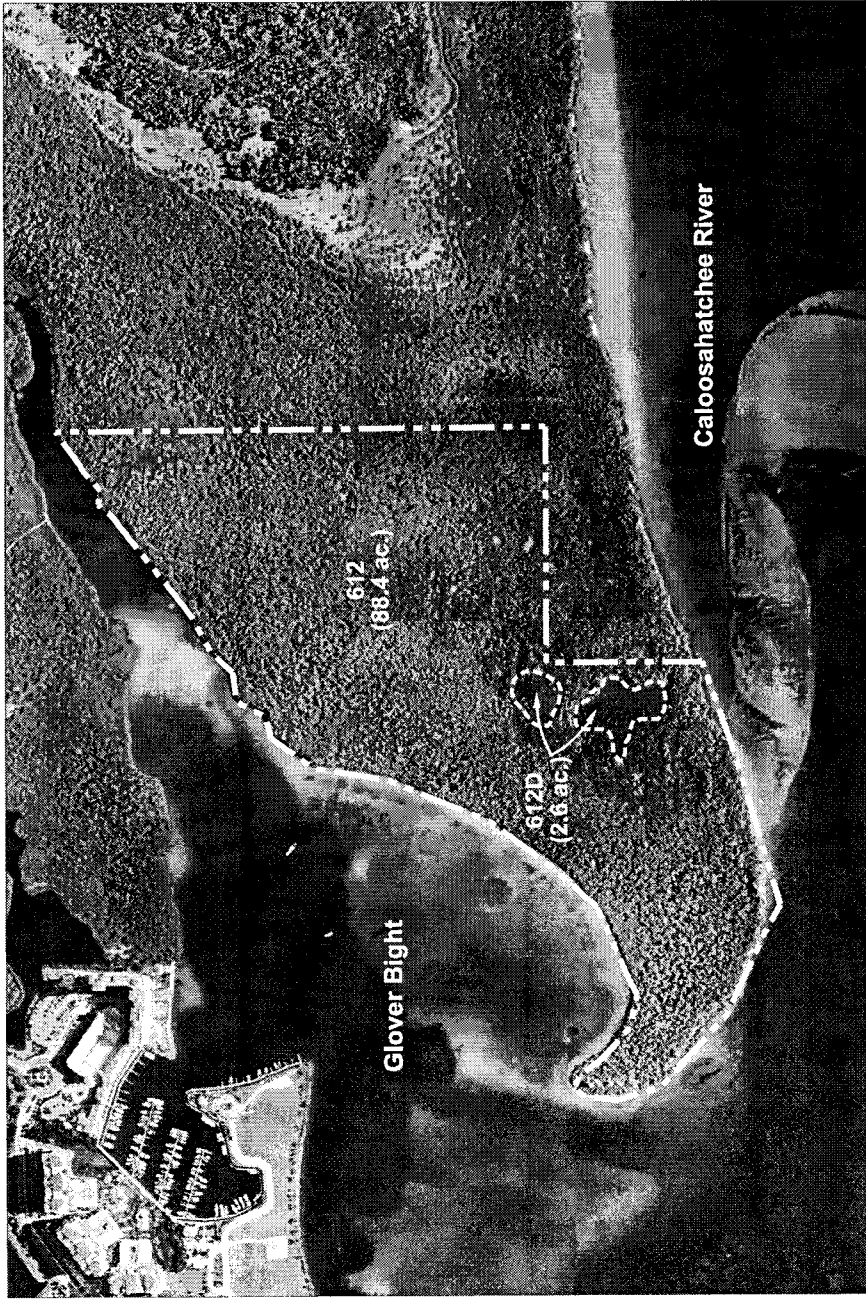


FIGURE 3. SITE 2 (S. ZEMEL PROPERTY)



SECTIONS: 22 and 27  
 TOWNSHIP: 45 S  
 RANGE: 23 E

LATITUDE: 26° 32' 7.5"  
 LONGITUDE: 81° 59' 38.7"



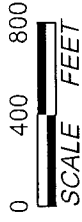
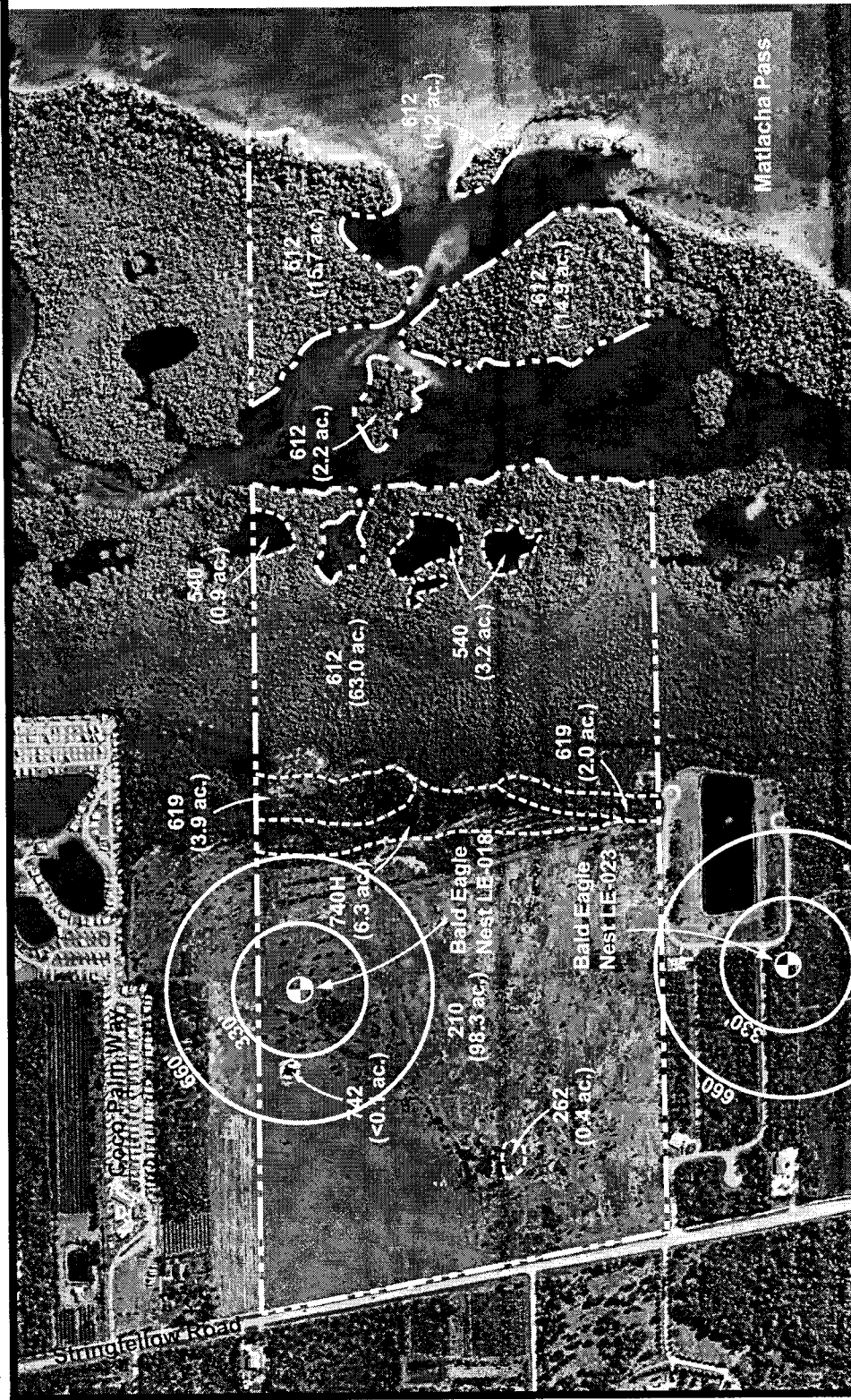
FLUCCS	Description	Acreage
612	Mangrove Swamps	88.4 ac.
612D	Mangrove Swamps - Disturbed	2.6 ac.
	Total	91.0 ac.

- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY,  
 NOT FOR CONSTRUCTION  
 April 16, 2014 1:58:47 P.M.  
 Drawing: EDEN01\_ALT\_SITES.DWG

**W. DEXTER BENDER  
 & ASSOCIATES, INC.**  
 ENVIRONMENTAL & MARINE CONSULTING  
 FORT MYERS 239-334-3680

FIGURE 4. SITE 3 (WILTSHIRE PROPERTY)



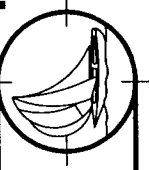
SECTIONS: 25 and 26  
TOWNSHIP: 45 S  
RANGE: 22 E  
LATITUDE: 26° 31' 50.7"  
LONGITUDE: 82° 4' 46.7"

FLUCCS	Description	Acreage
210	Cropland and Pastureland	98.3 ac.
262	Fallow Pasture	0.4 ac.
540	Bays and Estuaries	4.1 ac.
612	Mangrove Swamps	97.0 ac.
619	Exotic Wetland Hardwoods	5.9 ac.
740H	Hydric Disturbed Land	6.3 ac.
742	Borrow Areas	<0.1 ac.
Total		212.0 ac.

- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
  3. Vegetation associations and FLUCCS Codes area based on NW and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY  
NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

FIGURE 5. SITE 4 (FT. MYERS BROADCASTING PROPERTY)



SECTIONS: 23 and 24  
TOWNSHIP: 45 S  
RANGE: 22 E

LATITUDE: 26° 32' 4.3"  
LONGITUDE: 82° 4' 30.5"



0 400 800  
SCALE FEET



<u>FLUCCS</u>	<u>Description</u>	<u>Acreage</u>
612	Mangrove Swamps	97.1 ac.
540	Bays and Estuaries	4.1 ac.
	<u>Total</u>	<u>101.2 ac.</u>

Notes:

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

*PERMIT USE ONLY,  
NOT FOR CONSTRUCTION*

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG



**W. DEXTER BENDER  
& ASSOCIATES, INC.**  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

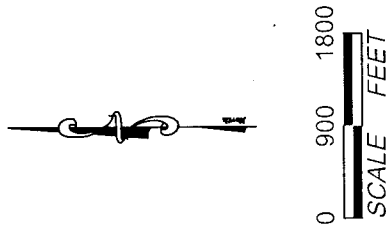
**FIGURE 6. SITE 5 (A. PETERSON PROPERTY)**

SECTIONS: 33 and 34 SECTION: 4 LATITUDE: 26° 30' 35.4"  
 TOWNSHIP: 45 S TOWNSHIP: 46 S LONGITUDE: 81° 59' 33.9"  
 RANGE: 23 E RANGE: 23 E



Notes:  
 1. Property boundary and location of eagle nest obtained from Q. Grady Minor and Associates.

FIGURE 7. SITE 6 (EDEN OAK PROPERTY)



FLUCCS	Description	Acreage
510	Streams and Waterways	3.09 ac.
511	Canal	8.66 ac.
511/612	Canal/Mangrove Swamps	5.20 ac.
*612	Mangrove Swamps	251.45 ac.
612/512	Mangrove Swamps/Mosquito Ditch	6.52 ac.
612/642	Mangrove Swamps/Saltwater Marshes	2.53 ac.
612D	Mangrove Swamps - Disturbed	1.77 ac.
612E	Mangrove Swamps invaded by Exotics (5-9%)	0.81 ac.
612E2	Mangrove Swamps invaded by Exotics (26-50%)	2.54 ac.
612E3	Mangrove Swamps invaded by Exotics (51-75%)	0.10 ac.
619	Exotic Wetland Hardwoods	8.58 ac.
619BP	Hydric Brazilian Pepper	0.32 ac.
642E	Saltwater Marshes invaded by Exotics (5-9%)	0.95 ac.
642E1	Saltwater Marshes invaded by Exotics (10-25%)	3.65 ac.
642E2	Saltwater Marshes invaded by Exotics (26-50%)	2.32 ac.
743	Spoil Areas	8.26 ac.
	Total	*306.75 ac.

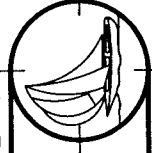
\*Includes all mangrove islands.

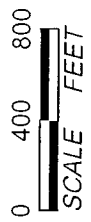
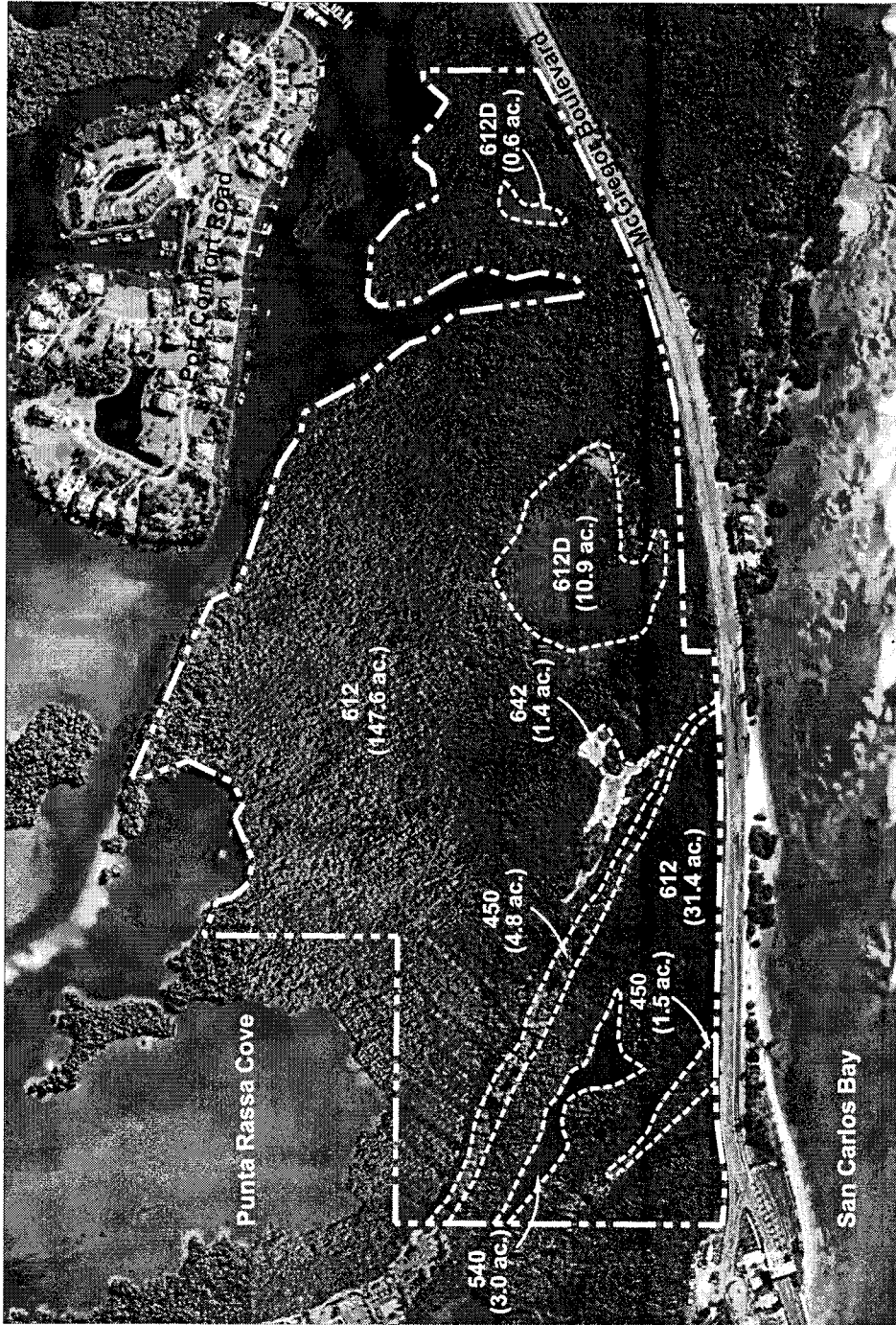
See application package for detailed vegetation mapping.

PERMIT USE ONLY  
 NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
 Drawing: EDEN01\_ALT\_SITES.DWG

W. DEXTER BENDER  
 & ASSOCIATES, INC.  
 ENVIRONMENTAL & MARINE CONSULTING  
 FORT MYERS 239-334-3680





SECTIONS: 9 and 10  
 TOWNSHIP: 46 S  
 RANGE: 23 E  
 LATITUDE: 26° 29' 18.2"  
 LONGITUDE: 81° 59' 59.1"

FLUCCS	Description	Acreage
450	Mixed Exotic Upland Forest	6.3 ac.
540	Bays and Estuaries	3.0 ac.
612	Mangrove Swamps	179.0 ac.
612D	Mangrove Swamps - Disturbed	11.5 ac.
642	Saltwater Marshes	1.4 ac.
	Total	201.2 ac.

- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY,  
 NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
 Drawing: EDENOT\_ALT\_SITES.DWG

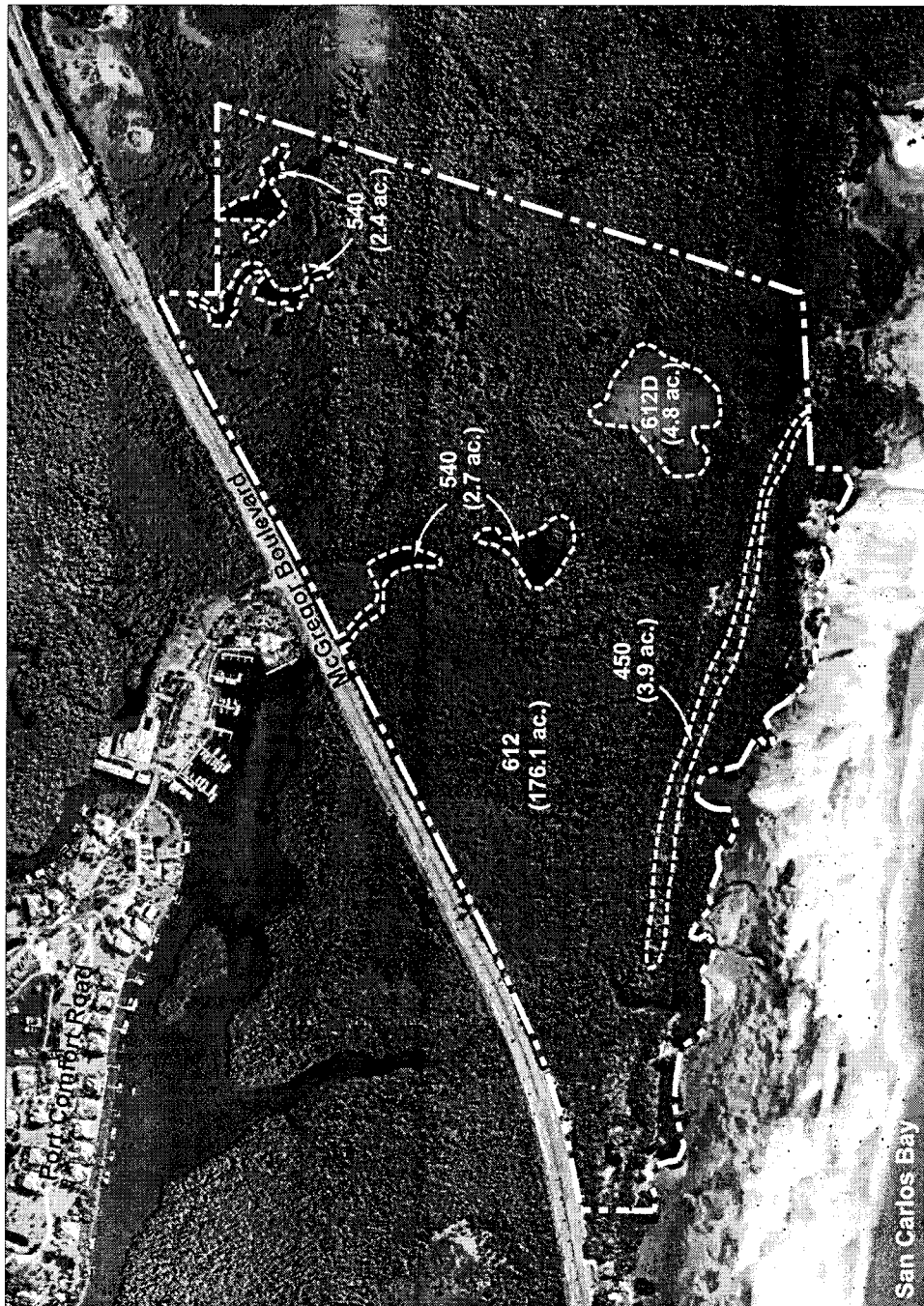
**W. DEXTER BENDER  
 & ASSOCIATES, INC.**  
 ENVIRONMENTAL & MARINE CONSULTING  
 FORT MYERS 239-334-3680

**FIGURE 8. SITE 7 (M & I REGIONAL PROPERTY)**



0 400 800  
SCALE FEET

SECTIONS: 10 and 11  
TOWNSHIP: 46 S  
RANGE: 23 E  
LATITUDE: 26° 29' 9.7"  
LONGITUDE: 81° 59' 17.6"



FLUCCS	Description	Acreage
450	Mixed Exotic Upland Forest	3.9 ac.
540	Bays and Estuaries	5.1 ac.
612	Mangrove Swamps	176.1 ac.
612D	Mangrove Swamps - Disturbed	4.8 ac.
Total		189.9 ac.

Notes:

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Vegetation associations and FLUCCS Codes are based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY.  
NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG

W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

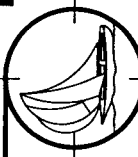
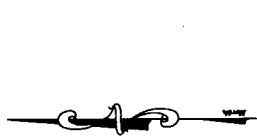


FIGURE 9. SITE 8 (TROUTMAN PROPERTY)



SECTIONS: 28 and 29  
TOWNSHIP: 44 S  
RANGE: 24 E

LATITUDE: 26° 37' 10.7"  
LONGITUDE: 81° 55' 29.2"



0 400 800  
SCALE FEET

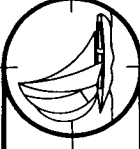


FLUCCS	Description	Acreage
414	Pine - Mesic Oak	30.9 ac.
421	Xeric Oak	1.9 ac.
450	Mixed Exotic Upland Forest	13.2 ac.
511	Canal	0.8 ac.
540	Bays and Estuaries	16.2 ac.
612	Mangrove Swamps	6.3 ac.
612/642	Mangrove Swamps/Saltwater Marshes	84.7 ac.
642	Saltwater Marshes	2.2 ac.
619	Exotic Wetland Hardwoods	6.7 ac.
630	Wetland Forested Mixed	1.3 ac.
741	Rural land in transition without positive indicators of intended activity	16.4 ac.
743	Spoil Areas	13.6 ac.
	Total	194.2 ac.

- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
  3. Vegetation mapping based on information obtained from SFWMD Permit Application No. 050824-16.

PERMIT USE ONLY.  
NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

FIGURE 10. SITE 9 (BRANDENBURG PROPERTY)

SECTIONS: 11 and 12  
TOWNSHIP: 45 S  
RANGE: 22 E

LATITUDE: 26° 34' 30.6"  
LONGITUDE: 82° 4' 49.2"



0 400 800  
SCALE FEET



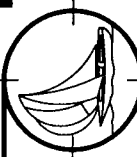
FLUCCS	Description	Acreage
540	Bays and Estuaries	1.2 ac.
612	Mangrove Swamps	119.3 ac.
	Total	120.5 ac.

Notes:

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

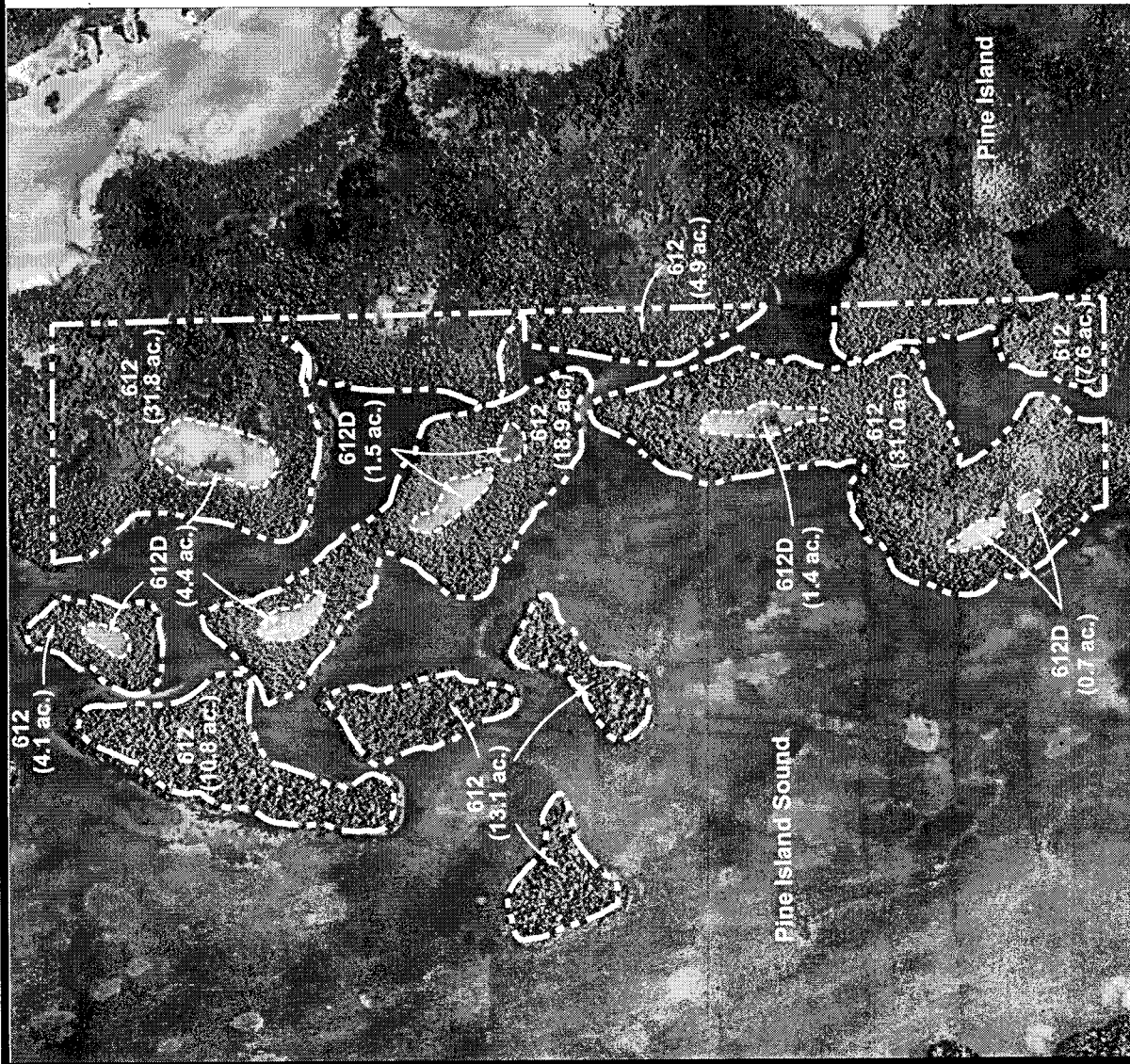
PERMIT USE ONLY.  
NOT FOR CONSTRUCTION

April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

FIGURE 11. SITE 10 (M. PETERSON PROPERTY)



0 400 800  
SCALE FEET

SECTION: 21  
TOWNSHIP: 45 S  
RANGE: 22 E

LATITUDE: 26° 32' 32.7"  
LONGITUDE: 82° 6' 33.0"

FLUCCS	Description	Acreage
612	Mangrove Swamps	122.2 ac.
612D	Mangrove Swamps - Disturbed	8.0 ac.
	Total	130.2 ac.

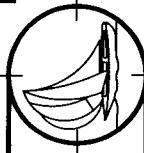
Notes:

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

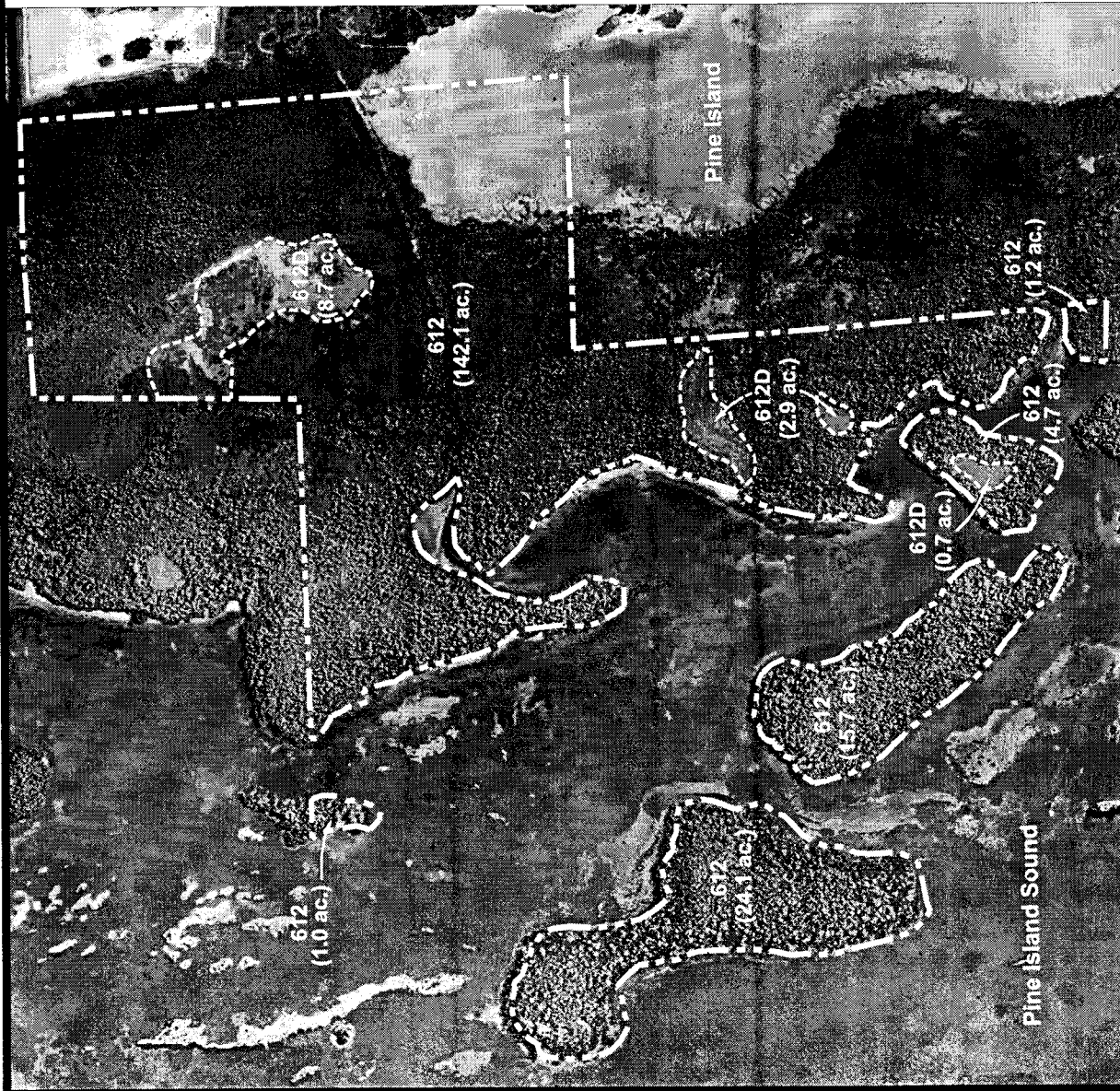
PERMIT USE ONLY, NOT FOR CONSTRUCTION April 16, 2014 1:58:47 p.m.  
Drawing: EDENOT\_ALT\_SITES.DWG

FIGURE 12. SITE 11 (J. FREEMAN PROPERTY)

W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680







0 400 800  
SCALE FEET

SECTION: 16  
TOWNSHIP: 45 S  
RANGE: 22 E

LATITUDE: 26° 33' 19.1"  
LONGITUDE: 82° 6' 49.3"

FLUCCS Description	Acreage
612 Mangrove Swamps	188.8 ac.
612D Mangrove Swamps - Disturbed	12.3 ac.
Total	201.1 ac.

**Notes:**

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

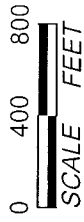
PERMIT USE ONLY, NOT FOR CONSTRUCTION April 16, 2014 1:58:47 p.m. Drawing: EDEN01\_ALT\_SITES.DWG



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

FIGURE 13: SITE 12 (N. FREEMAN PROPERTY)





SECTION: 9  
TOWNSHIP: 45 S  
RANGE: 22 E

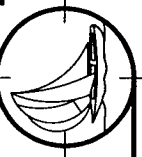
LATITUDE: 26° 34' 16"  
LONGITUDE: 82° 6' 56.3"

FLUCCS	Description	Acreage
450	Mixed Exotic Upland Forest	5.1 ac.
511	Canal	3.1 ac.
540	Bays and Estuaries	7.4 ac.
612	Mangrove Swamps	164.8 ac.
612D	Mangrove Swamps - Disturbed	1.8 ac.
743	Spoil Areas	1.0 ac.
Total		183.2 ac.

Notes:

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY, NOT FOR CONSTRUCTION Drawing: EDENOT\_ALT\_SITES.DWG April 16, 2014 1:58:47 p.m.



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

FIGURE 14. SITE 13 (HILL PROPERTY)



0 400 800  
SCALE FEET

SECTIONS: 3, 4, and 9  
TOWNSHIP: 45 S  
RANGE: 22 E

LATITUDE: 26° 34' 49.3"  
LONGITUDE: 82° 6' 52.2"

FLUCCS	Description	Acreage
240	Nurseries and Vineyards	72.3 ac.
411	Pine Flatwoods	51.7 ac.
437	Australian Pines	3.4 ac.
540	Bays and Estuaries	1.7 ac.
612	Mangrove Swamps	51.0 ac.
612D	Mangrove Swamps - Disturbed	11.7 ac.
740	Disturbed Land	24.4 ac.
742	Borrow Areas	0.7 ac.
Total		216.9 ac.

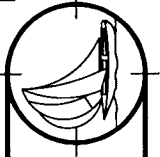
Notes:

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
3. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY, NOT FOR CONSTRUCTION April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG

FIGURE 15. SITE 14 (NORDIC PROPERTY)

W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680





0 400 800  
SCALE FEET

SECTIONS: 17 and 20  
TOWNSHIP: 47 S  
RANGE: 25 E

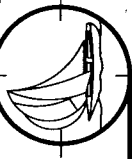
LATITUDE: 26° 22' 27.3"  
LONGITUDE: 81° 50' 02"

FLUCCS	Description	Acreage
612	Mangrove Swamps	86.8 ac.
411/424	Pine Flatwoods/Melaleuca	24.0 ac.
Total		110.8 ac.

Notes:

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
3. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

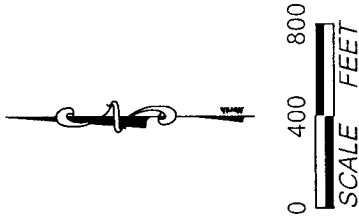
PERMIT USE ONLY, NOT FOR CONSTRUCTION April 16, 2014 1:58:47 p.m.  
Drawing: EDEN01\_ALT\_SITES.DWG



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

FIGURE 16. SITE 15 (Peninsula Sailfish Parcel)

SECTIONS: 19 and 30      SECTION: 25      LATITUDE: 26° 21' 22.1"  
 TOWNSHIP: 47 S      TOWNSHIP: 47 S      LONGITUDE: 81° 51' 6.5"  
 RANGE: 25 E      RANGE: 24 E



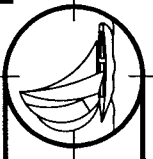
<u>FLUCCS</u>	<u>Description</u>	<u>Acreage</u>
612	Mangrove Swamps	100.7 ac.

- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY, NOT FOR CONSTRUCTION April 16, 2014 1:58:47 p.m. Drawing: EDEN01\_ALT\_SITES.DWG

FIGURE 17. SITE 16 (Battista Parcel)

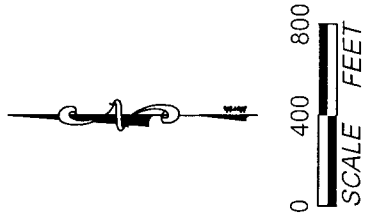
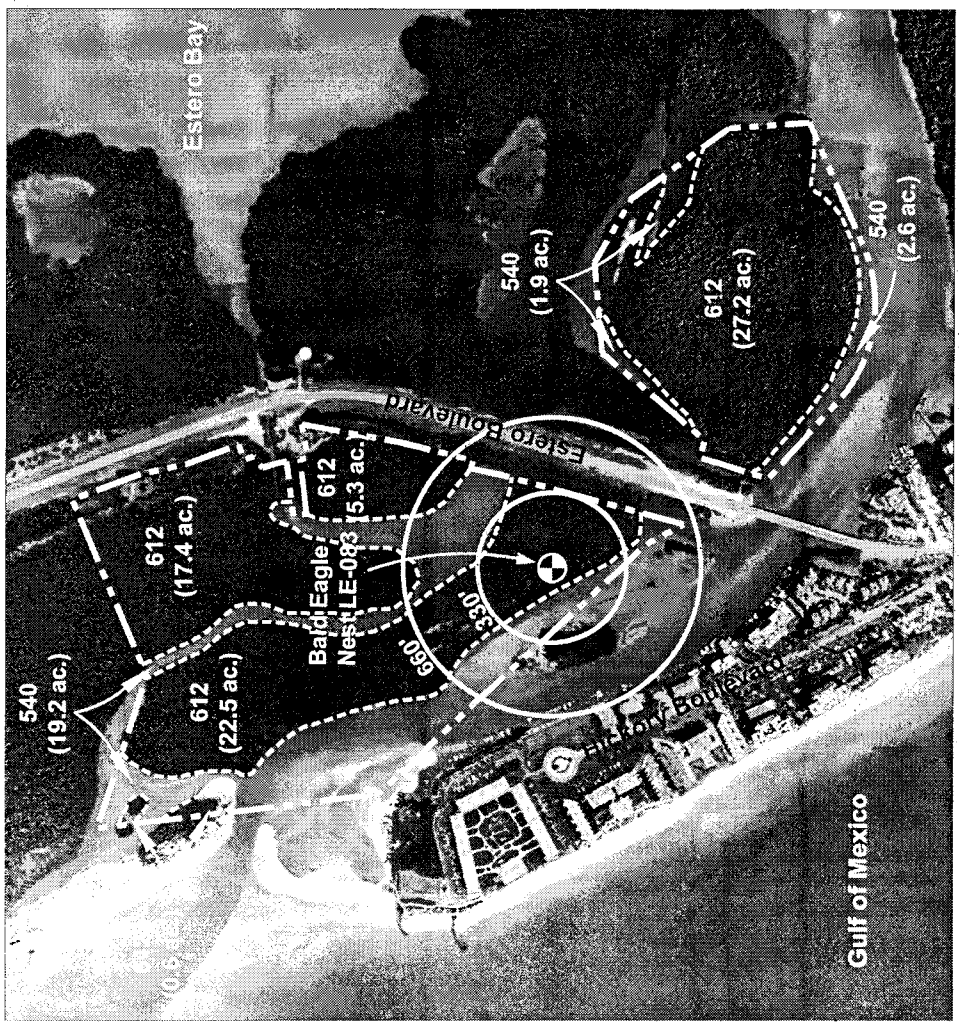
W. DEXTER BENDER  
 & ASSOCIATES, INC.  
 ENVIRONMENTAL & MARINE CONSULTING  
 FORT MYERS 239-334-3680





SECTIONS: 24  
 TOWNSHIP: 47 S  
 RANGE: 24 E

LATITUDE: 26° 21' 47.6"  
 LONGITUDE: 81° 51' 29.3"



FLUCCS	Description	Acreage
540	Bays and Estuaries	23.7 ac.
612	Mangrove Swamps	73.0 ac.
	Total	96.7 ac.

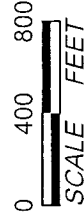
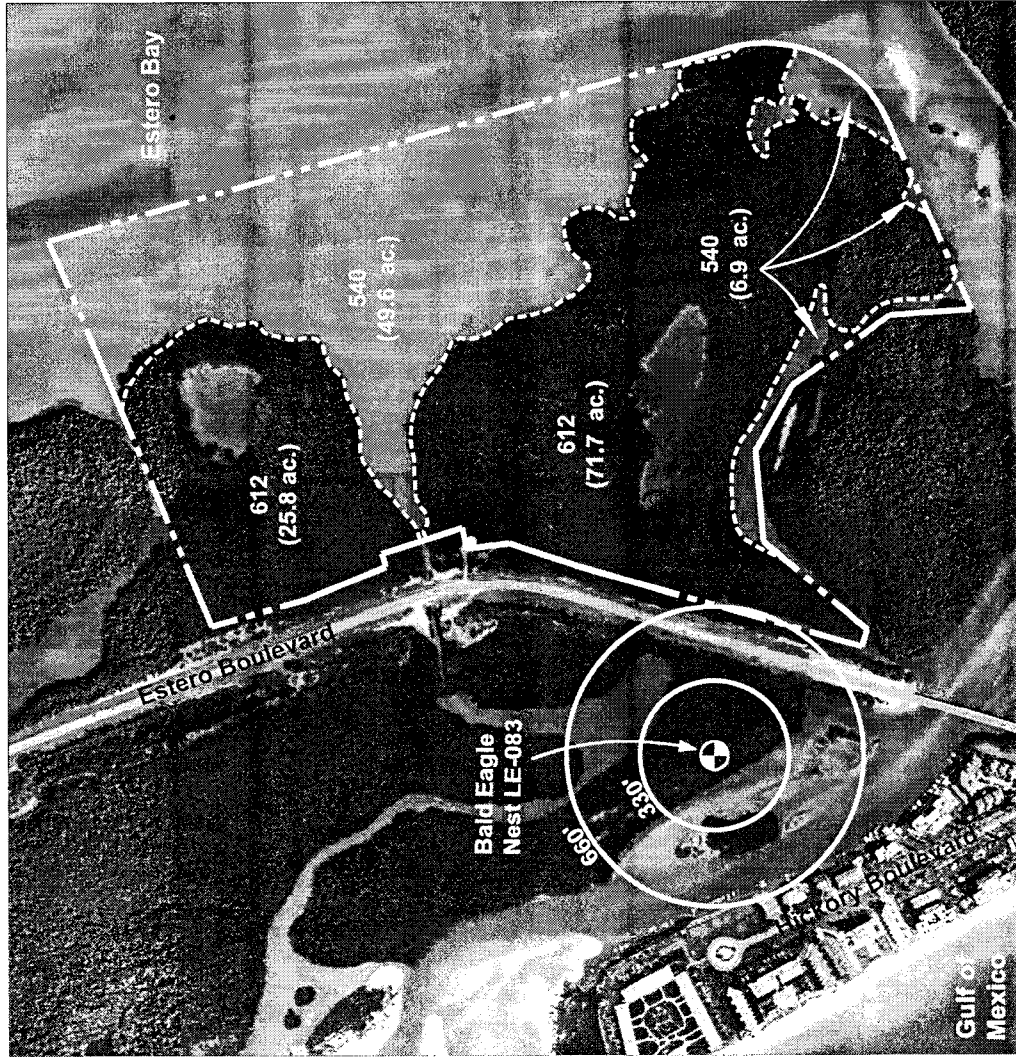
- Notes:
1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
  2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
  3. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

PERMIT USE ONLY, NOT FOR CONSTRUCTION April 16, 2014 1:58:47 p.m. Drawing: EDEN01\_ALT\_SITES.DWG

FIGURE 18. SITE 17 (Barron Collier Investments Parcel)

W. DEXTER BENDER & ASSOCIATES, INC.  
 ENVIRONMENTAL & MARINE CONSULTING  
 FORT MYERS 239-334-3680

SECTIONS: 19 SECTION: 24 LATITUDE: 26° 21' 54.2"  
 TOWNSHIP: 47 S TOWNSHIP: 47 S LONGITUDE: 81° 51' 13.7"  
 RANGE: 25 E RANGE: 24 E



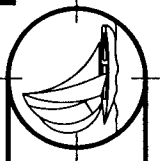
<u>FLUCCS</u>	<u>Description</u>	<u>Acreage</u>
540	Bays and Estuaries	56.5 ac.
612	Mangrove Swamps	97.5 ac.
	<u>Total</u>	<u>154.0 ac.</u>

**Notes:**

1. Property boundary is approximate and obtained from Lee County Property Appraiser's Website.
2. Location of eagle nest obtained from Florida Fish and Wildlife Conservation Commission.
3. Vegetation associations and FLUCCS Codes area based on NWI and soils maps, recent aerial photography, and aerial reconnaissance via helicopter.

**PERMIT USE ONLY, NOT FOR CONSTRUCTION** April 16, 2014 1:58:47 p.m.  
 Drawing: EDEN01\_ALT\_SITES.DWG

**FIGURE 19. SITE 18 (CDC Land Investments Parcel)**



**W. DEXTER BENDER  
 & ASSOCIATES, INC.**  
 ENVIRONMENTAL & MARINE CONSULTING  
 FORT MYERS 239-334-3680



REPLY TO  
ATTENTION OF

Regulatory Division  
Fort Myers Section

DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
1520 ROYAL PALM SQUARE BOULEVARD, SUITE 310  
FORT MYERS, FLORIDA 33919

August 7, 2012

## ***PUBLIC NOTICE***

Permit Application No. SAJ-2010-02965(IP-KDS)

TO WHOM IT MAY CONCERN: This district has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below:

APPLICANT: Eden Oak I, LLC and Eden Oak Port Sanibel, LLC  
1443 Hurontario St.  
Mississauga, Ontario L5G 3H5

WATERWAY & LOCATION: The proposed Eden Oak Preserve project is located in waters of the United States, tidal forested and herbaceous wetlands, abutting the south shore of the Caloosahatchee River just east of the rivers confluence with San Carlos Bay, in the Lower Caloosahatchee River Frontal Watershed (10-digit United States Geological Survey 10-digit Hydrologic Unit Code 0309020506). The site is bisected by Shell Point Boulevard within portions of Sections 33 and 34, Township 45 South and Sections 3, 4, 9, and 10, Township 46 South all within Range 23 East, Lee County, Florida.

Directions to the site are as follows: Take U.S. 41 south from Fort Myers and turn right onto Gladiolus Drive (C.R. 865) heading west. Turn left onto Summerlin Road (C.R. 869) heading south. Turn right onto Shell Point Boulevard heading north. Project site is on both sides of the road immediately south of Caleb Drive.

LATITUDE & LONGITUDE: The approximate center of the site is located at latitude 26.510° North and longitude 81.993° West.

### PROJECT PURPOSE:

Basic: Residential development and marina.

Overall: To construct a residential development and marina with watercraft access to the Gulf of Mexico in Southwest Florida.

PROPOSED WORK: The applicant proposes to discharge 590,471 cubic yards of fill into 60.73 acres of tidal wetlands (mangrove forests and saltwater marsh) and 2.68 acres of open water and excavate 241,442 cubic yards of material from 26.28 acres of tidal wetlands and 1.80 acres of open water to construct a residential development referred to as Eden Oak Preserve on a 158.31-

acre parcel. Approximately 83 percent of the subject parcel consists of waters of the United States. The proposed Eden Oak Preserve development consists of:

- a. 54 single-family units and 252 multi-family units with a clubhouse, community pool, and associated infrastructure including roadways, parking, drainage, and utilities;
- b. 38,265 square feet of docking structures (marginal docks and piers throughout the project site) providing 171 wet slips;
- c. A 410-square-foot observational platform over MHW;
- d. 3 canoe/kayak launch areas (1,657 square feet of structure over water);
- e. 5 outfall/discharge pipes with manatee protection devices;
- f. 6,576.1 linear feet of vertical seawalls lined with riprap; and
- g. 894.5 linear feet of riprap placed along the shoreline in front of mangrove preserve areas.

The project also includes the hand-removal of exotic vegetation within the proposed 195.09 acres of preserve areas. The proposed work is depicted on the attached twelve drawings.

CULTURAL RESOURCES: The Corps is not aware of any known historic properties within the Permit Area. By copy of this public notice, the Corps is providing information to the State Historic Preservation Officer (SHPO) for review. Our final determination relative to historic resource impacts is subject to review by and coordination with the State Historic Preservation Officer and those federally recognized tribes with concerns in Florida and the Permit Area.

Avoidance and Minimization Information: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

“Approximately 194.08 acres of privately owned mangrove wetlands and 0.31 acres of melaleuca dominated wetlands will be preserved both on and adjacent to the project area. While 45.95 acres of that total have been previously disturbed, these wetlands represent the majority of the higher relative quality wetlands on-site. In addition 148.44 acres of privately owned mangrove islands owned by Eden Oak Shell Point, LLC, located to the west and south of the proposed development area, will be preserved.

The proposed project will preserve most of the higher quality wetlands on the property. The project will avoid more than 95 percent of the wetlands with a Little Pine Island Mitigation Bank Functional Assessment score of 0.80 or higher and more than 98 percent of the wetlands with a UMAM score of 0.80 or higher. The project’s wetland impacts have been primarily restricted to lower quality previously impacted wetlands.”

Compensatory Mitigation: The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

“The proposed wetland mitigation plan will include the purchase of 47.18 forested and 6.95 herbaceous saltwater Little Pine Island Mitigation Bank wetland mitigation bank credits. The proposed project also includes the installation of a 48 inch culvert (with Manatee protection devices) under Shell Point Boulevard that is designed to substantially improve the flushing of the applicant owned canals and is anticipated to improve the water quality of these and the adjacent



canals and the Caloosahatchee River. In addition, the overall project will include 148.44 acres of preserved privately owned mangrove islands and will implement a management plan to treat exotic vegetation. However, these areas are not included in the mitigation plan and therefore the environmental benefits of those preserves are in addition to the functional replacement provided by the Little Pine Island Mitigation Bank.”

EXISTING CONDITIONS: The 158.31-acre project site consists of 132.97 acres of wetlands, 16.91 acres of open water, and 8.43 acres of uplands. The wetlands consist of 8.90 acres of melaleuca/Brazilian pepper dominated wetlands, 6.92 acres of saltwater marsh invaded by exotics, 6.21 acres of mangrove swamps/mosquito ditch, and 110.94 acres of mangrove swamp. Of the mangrove swamp total, 110.94 acres has been previously cleared and is secondary re-growth and 7.4 acres were required to be created by Palm Acres Trust in accordance with a December 22, 1982 Final Consent Judgment, United States vs. Palm Acres Trust. The open waters consist of 13.82 acres of manmade canals and 3.09 acres of river bottom owned by the applicant. Upland areas consist of 8.43 acres of spoil piles and berms. Wildlife surveys conducted on site documented white ibis (*Eudocimus albus*) and tricolored heron (*Egretta tricolor*).

The existing area surrounding the project area consists of a residential development known as Palm Acres to the northwest, the Caloosahatchee River to the northeast, Estero Bay Preserve State Park to the west and south, and preserve wetlands associated with Shell Point and St. Charles Harbor developments to the east and south. Shell Point Boulevard bisects the property.

The application also includes a description of 148.44 acres of mangrove islands owned by Eden Oak Port Sanibel, LLC, located north, south, and west of the project site. This site is not described in detail in this Public Notice because no dredge or fill activities are proposed.

ENDANGERED SPECIES: The U.S. Army Corps of Engineers (Corps) has determined the proposal may affect the West Indian manatee (*Trichechus manatus*), the wood stork (*Mycteria americana*), and the smalltooth sawfish (*Pristis pectinata*) and may adversely modify designated critical habitat for the smalltooth sawfish. The project site is located within the Core Foraging Area of wood stork colony number 619041 and suitable foraging habitat is present. Using *The Corps of Engineers, Jacksonville District, U.S. Fish and Wildlife Service, South Florida Ecological Services Field Office and State of Florida Effect Determination Key for the Wood Stork in South Florida* dated January 2010 (A-B-C-E), the Corps has determined the project may affect the wood stork because suitable foraging habitat is located at the project site and a wood stork foraging analysis has not been received.

The project site is located in designated manatee critical habitat and the San Carlos Bay Important Manatee Area. Using the *Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida*, dated March 2011, the Corps has determined the project may affect the manatee because the projects impacts to mangroves will have a significant effect on the manatee and the project includes the creation and expansion of new canals. The Corps has determined the project will not adversely modify designated critical habitat for the manatee.

The Corps has determined the project may affect the smalltooth sawfish and may adversely modify its designated critical habitat. The project is located within the Charlotte Harbor Estuary Unit of the smalltooth sawfish designated critical habitat. The applicant has stated the project will impact 0.8 acres of essential features (red mangroves and shallow euryhaline habitat). The Corps has not yet confirmed the area of critical habitat impact.

The Corps has determined the proposal would have no effect on any other listed threatened or endangered species or adversely modify any other designated critical habitat.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. The proposal would impact by dredging and filling approximately 87.01 acres of mangrove wetlands and 4.48 acres of mud, shell, sand, and rock bottom utilized by various life stages of penaeid shrimp complex, reef fish, stone crab, spiny lobster, migratory/pelagic fish, and snapper/grouper complex. Our initial determination is that the proposed action would have a substantial adverse impact on EFH or Federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

Comments regarding the application should be submitted in writing to the District Engineer at the above address within 30 days from the date of this notice.

If you have any questions concerning this application, you may contact Krista Sabin at the letterhead address, by electronic mail at [Krista.D.Sabin@usace.army.mil](mailto:Krista.D.Sabin@usace.army.mil), by fax at 239-334-0797, or by telephone at 239-334-1975 extension 31.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

**IMPACT ON NATURAL RESOURCES:** Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice, we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative Impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest. The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess Impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**COASTAL ZONE MANAGEMENT CONSISTENCY:** In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

**REQUEST FOR PUBLIC HEARING:** Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

*D. W. Kinsland*

# Eden Oak Preserve

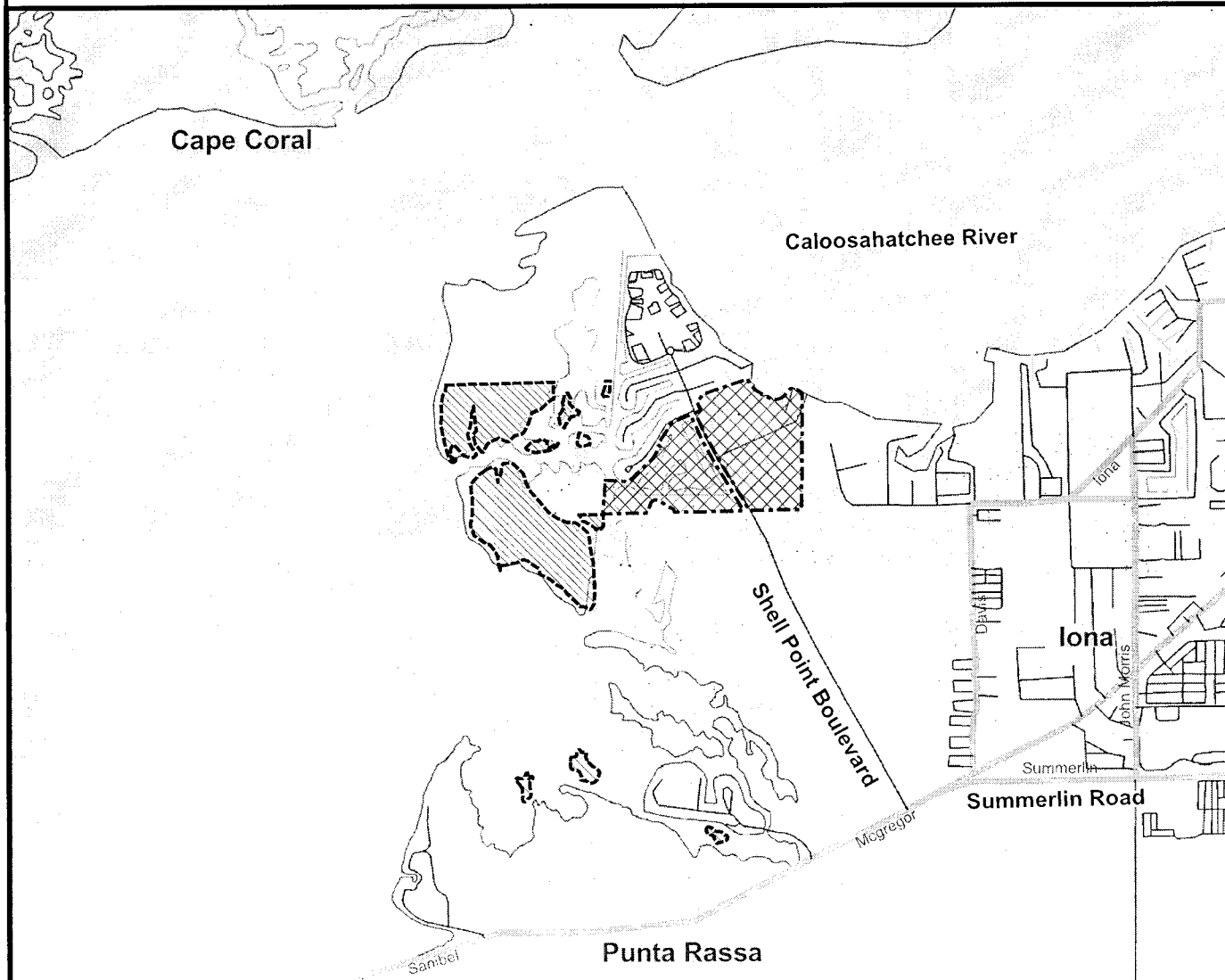
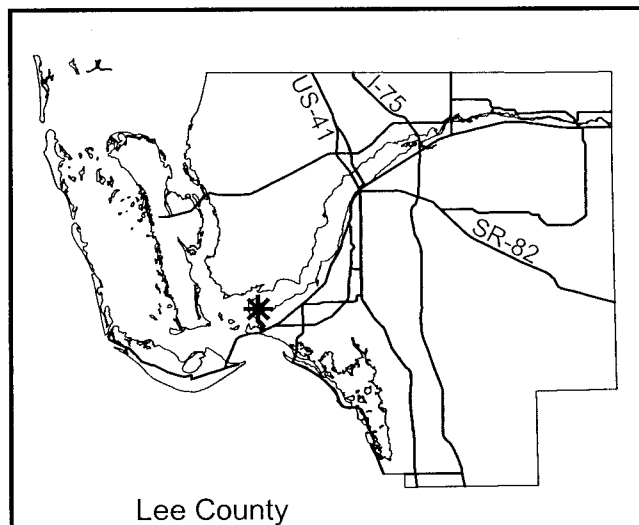


Section: 34  
Township: 45 South  
Range: 23 East

✱ Project Location

▨ Parcel A

▨ Parcel B

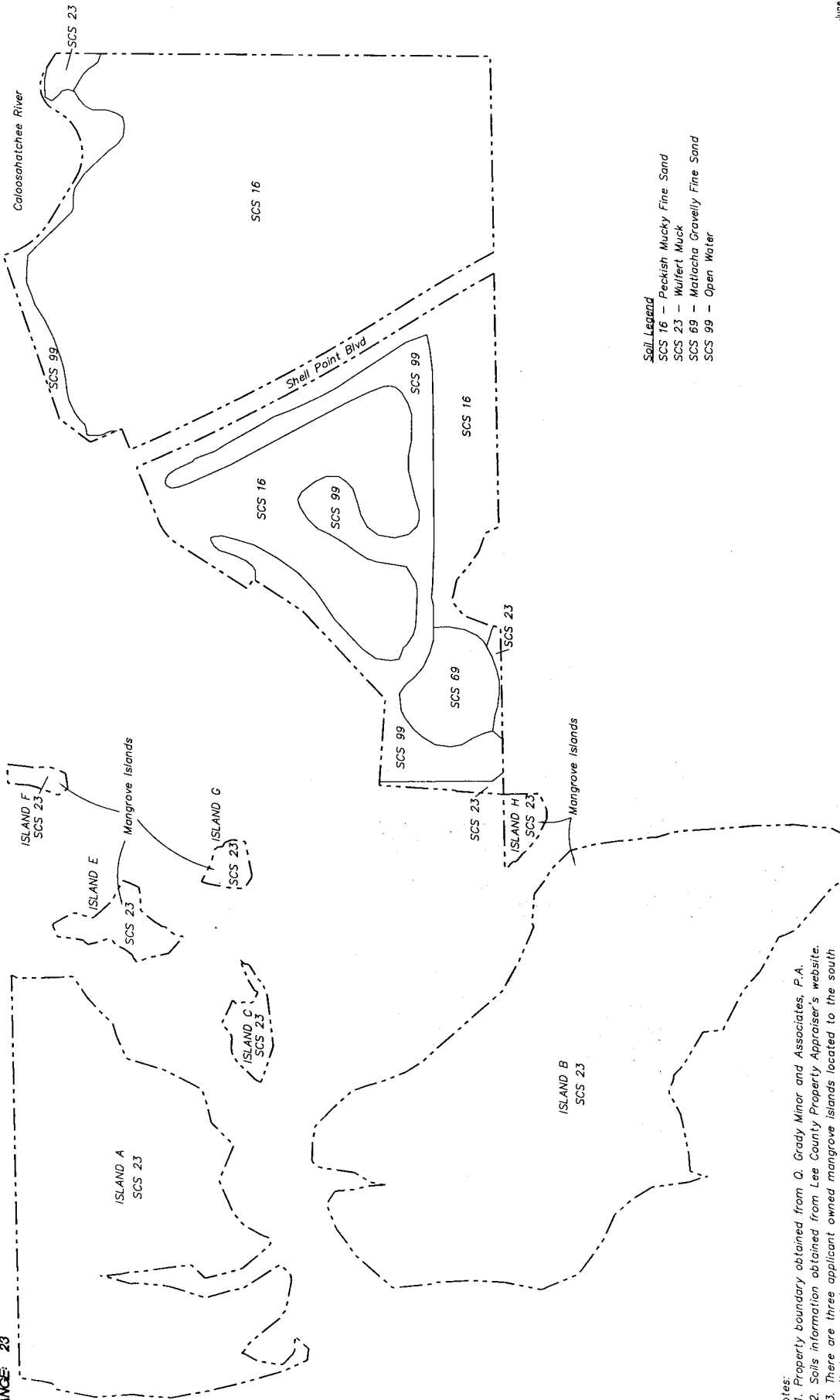


**Figure 1. Location Map**



**W. DEXTER BENDER & ASSOCIATES, INC.**  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS (239) 334-3680

SECTION: 34  
TOWNSHIP: 45  
RANGE: 23



**Soil Legend**  
 SCS 16 - Peckish Mucky Fine Sand  
 SCS 23 - Wulfert Muck  
 SCS 69 - Matiacha Gravelly Fine Sand  
 SCS 99 - Open Water

- Notes:
1. Property boundary obtained from O. Grady Minor and Associates, P.A.
  2. Soils information obtained from Lee County Property Appraiser's website.
  3. There are three applicant owned mangrove islands located to the south that are not shown.

June 19, 2013 9:50:01 a.m.  
Drawing: EDEN OAK.DWG

PERMIT USE ONLY, NOT FOR CONSTRUCTION



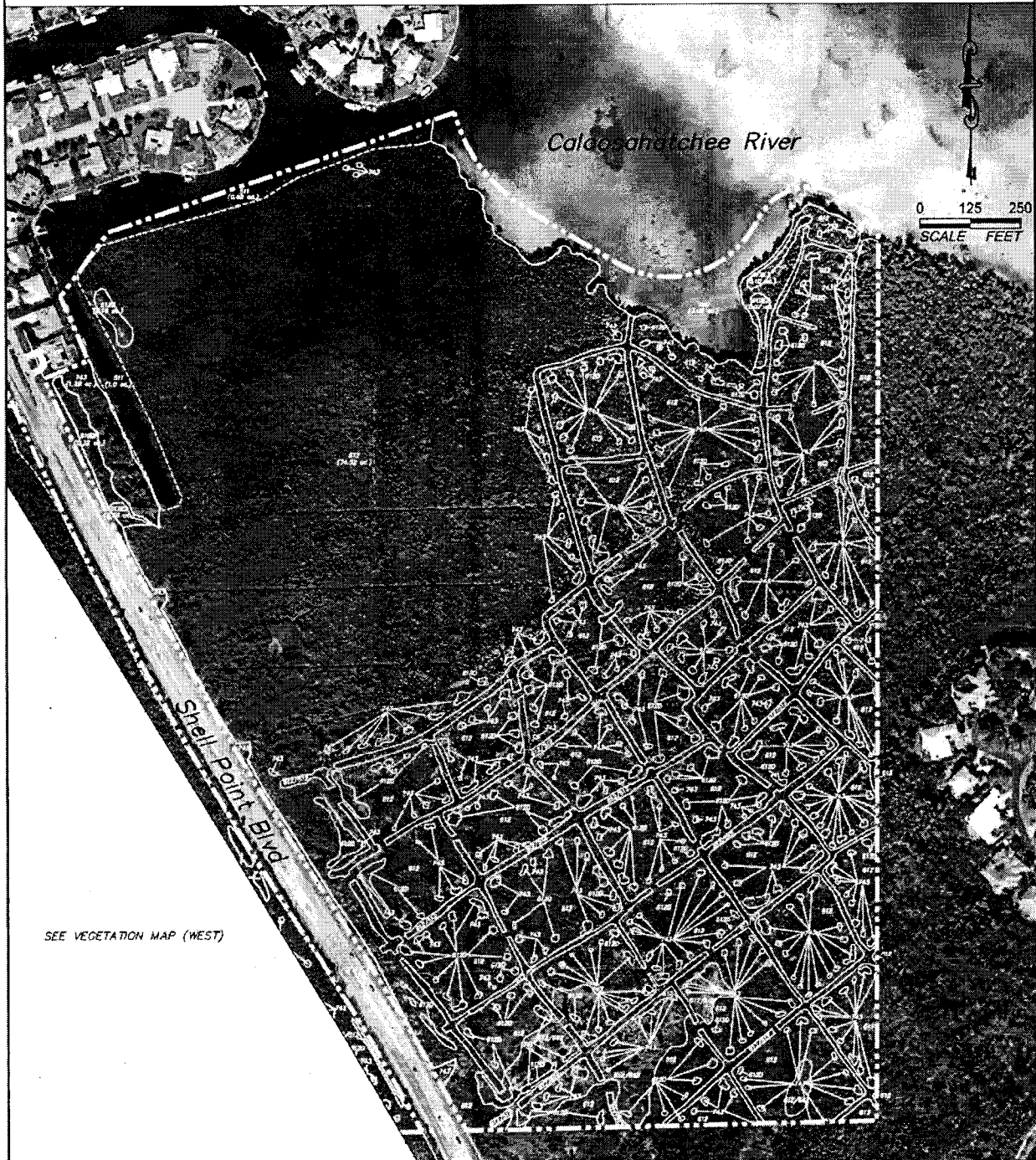
W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 239-334-3680

EDEN OAK PRESERVE

SOIL MAP

EXHIBIT 1.A

SECTION 34  
TOWNSHIP 45  
RANGE 23



SEE VEGETATION MAP (WEST)

- Surveyed TOB, MHW, and Wetland Lines
- ~~~~~ Vegetation Line
- Property Line

**Notes:**

1. Property boundary obtained from Q. Grady Minor and Associates, P.A.
2. Approximate location of mosquito ditches and associated spoil piles based on photo-interpretation of 1972 and 2008 aerial photography and extensive ground truthing in 2009.
3. Delineation of jurisdictional wetlands reviewed and approved by SFWMMD during a May 17, 2011 site inspection.
4. Surveyed wetland line and top of bank line obtained from Q. Grady Minor and Associates, P.A.

FLUCCS	Description
510	Streams and Waterways
511	Canal
612	Mangrove Swamps
612/512	Mangrove Swamps/Mosquito Ditch
612/642	Mangrove Swamps/Saltwater Marshes
612D	Mangrove Swamps - Disturbed
612E2	Mangrove Swamps invaded by Exotics (26-50%)
619BP	Hydric Brazilian Pepper
743	Spoil Areas

PERMIT USE ONLY, NOT FOR CONSTRUCTION

June 18, 2012 @ 5:50 PM  
Drawing: E:\00175\04\DWG

EXHIBIT LB(2)

VEGETATION MAP (EAST)

EDEN OAK PRESERVE

W. DEXTER BENDER & ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT MYERS 889-334-3085



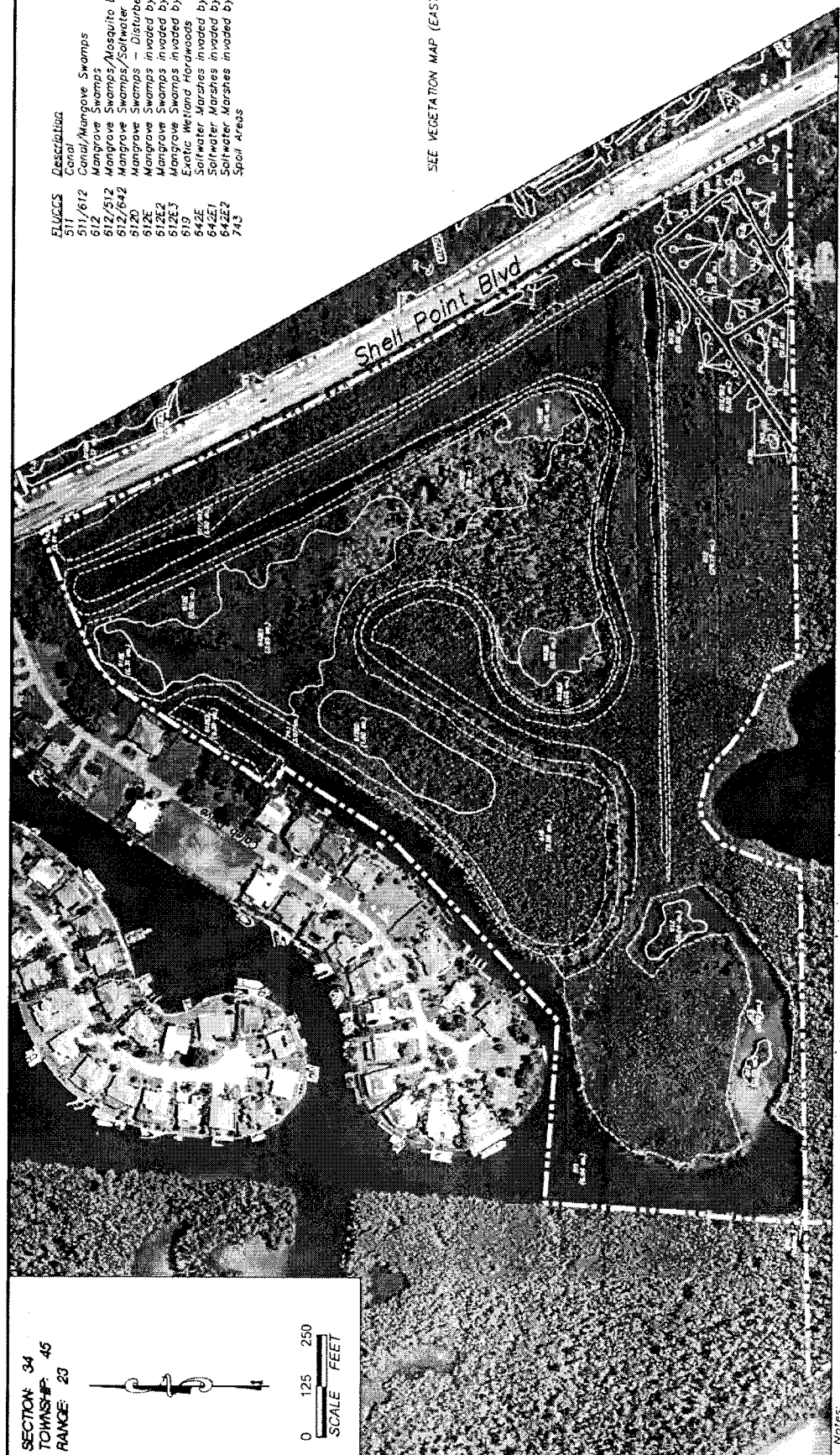
SECTION 34  
TOWNSHIP 45  
RANGE 23



0 125 250  
SCALE FEET

FLUCCS	Description
511	Canal
511/612	Mangrove Swamps
512/512	Mangrove Swamps/Mosquito Ditch
512/642	Mangrove Swamps/Saltwater Marshes
5120	Mangrove Swamps - Disturbed
51202	Mangrove Swamps invaded by Exotics (5-3%)
51202	Mangrove Swamps invaded by Exotics (26-50%)
51203	Mangrove Swamps invaded by Exotics (51-75%)
519	Ecotic Wetland Hardwoods
543E	Softwater Marshes invaded by Exotics (5-9%)
543E1	Softwater Marshes invaded by Exotics (10-25%)
543E2	Softwater Marshes invaded by Exotics (26-50%)
743	Spill Areas

SEE VEGETATION MAP (EAST)



Surveyed TOB, MHW, and Wetland Lines

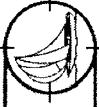
Vegetation Line

Property Line

- Notes:
1. Property boundary obtained from Q. Grady Minor and Associates, P.A.
  2. Approximate location of mosquito ditches and associated spoil piles based on photo-interpretation of 1972 and 2008 aerial photography and extensive ground truthing in 2009.
  3. Delineation of jurisdictional wetlands reviewed and approved by SFWD during a May 17, 2011 site inspection.
  4. Surveyed wetland line and top of bank line obtained from Q. Grady Minor and Associates, P.A.

PERMIT USE ONLY, NOT FOR CONSTRUCTION

DATE 19, 2011 6:43:01 AM  
DRAWING EDENOAKPLANS



W. DEXTER BENDER  
& ASSOCIATES, INC.  
ENVIRONMENTAL & MARINE CONSULTING  
FORT WORTH 239-394-9880

EXHIBIT 1B(3)

VEGETATION MAP (WEST)

EDEN OAK PRESERVE

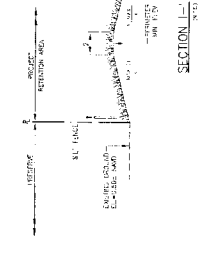
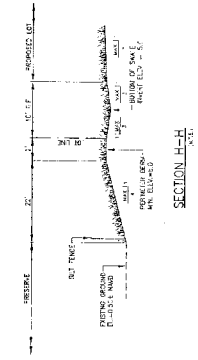
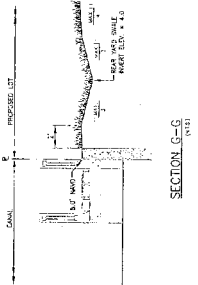
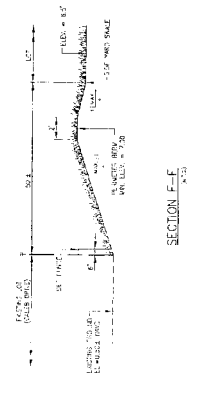
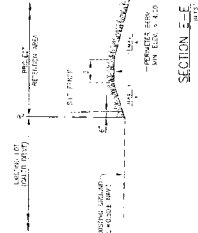
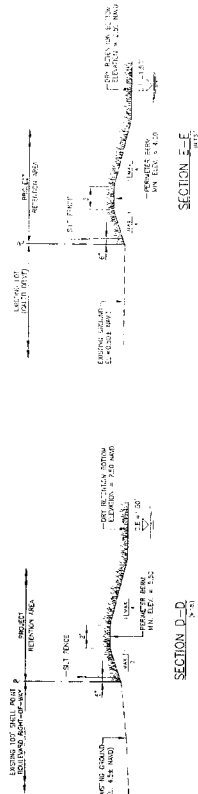
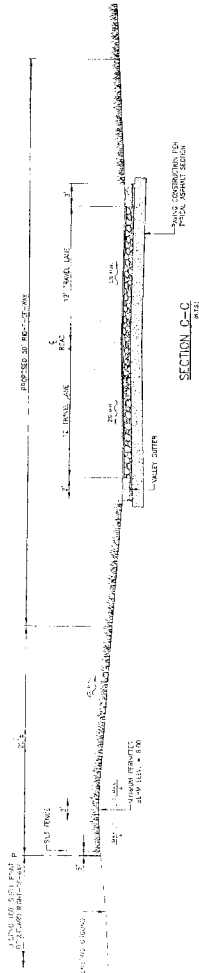
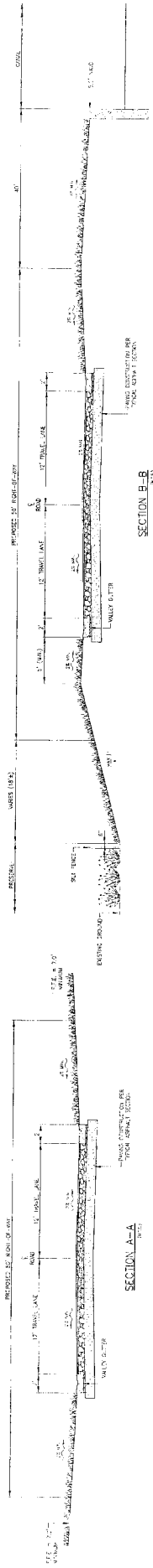








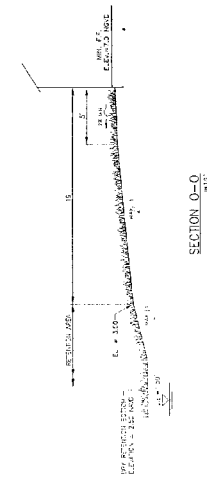
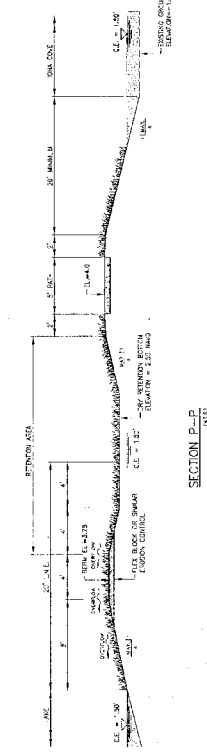
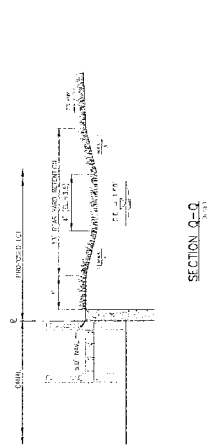
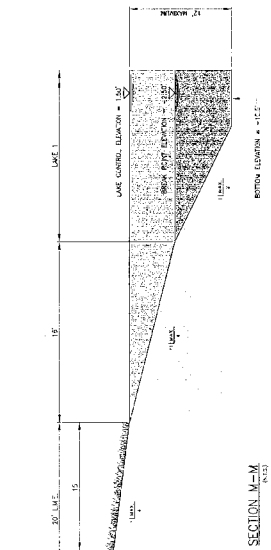
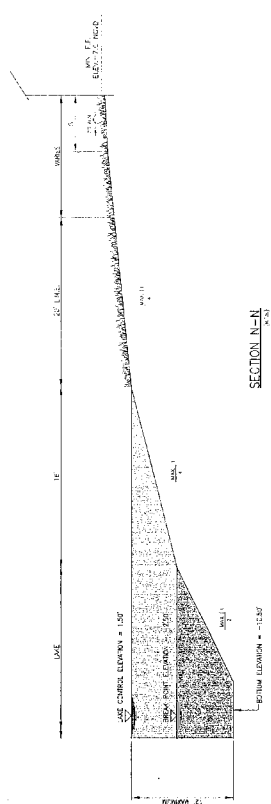
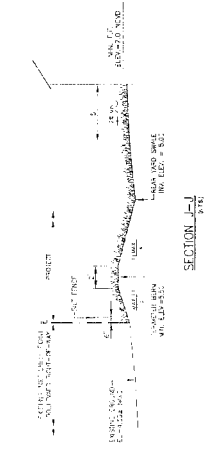
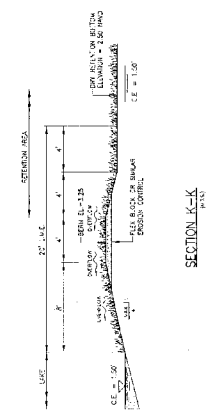
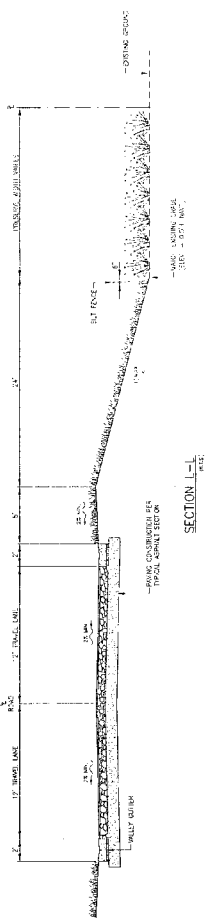




ERP SUBMITTAL

EDEN OAK		CROSS SECTIONS (WEST)	
<p>GradyMinor</p> <p>Civil Engineers • Land Surveyors • Planners • Landscape Architects</p> <p>CERT. OF ACHT. NO. 000101 CERT. OF ACHT. NO. 000101</p> <p>www.GradyMinor.com 10 Grady Minor and Associates, P.A.</p>		<p>238.917.1144</p> <p>Bonita Springs</p> <p>FOR OFFICE</p> <p>238.659.4300</p> <p>Planners • Landscape Architects</p> <p>BUSINESS LIC. 2606000</p>	
DESIGNED BY	DATE	PROJECT NO.	DATE
DRAWN BY	DATE	PROJECT NO.	DATE
CHECKED BY	DATE	PROJECT NO.	DATE
APPROVED BY	DATE	PROJECT NO.	DATE
SCALE	DATE	PROJECT NO.	DATE
BY	DATE	PROJECT NO.	DATE
DESCRIPTION	DATE	PROJECT NO.	DATE

LEGEND

[illegible]





## MEMORANDUM FOR RECORD

June 5, 2014

SUBJECT: U.S. Environmental Protection Agency Review of proposed Eden Oak Preserve;  
SAJ-2010-02965(IP-KDS)

The U.S. Environmental Protection Agency (EPA) review of the Eden Oak Preserve alternative site analysis and general comments are provided below.

1. U.S. Army Corps of Engineers determined the overall project purpose is to construct a residential development and marina with access to the Gulf of Mexico. Therefore, sites in Collier County should have been included in the alternative site analysis.
2. The EPA questions why the alternate analysis only reviewed contiguous parcels under the same ownership. Contiguous parcels under different owners would still meet the project purpose.
3. Size of each site reviewed should have been based on meeting the project purpose. Sites larger than the project purpose should not be penalized unless there is an economic impact on the applicant. This should also be true for properties within the acre range under review.
4. Wetland analysis should have had more emphasis placed on the quality and quality of impacts that may occur at each site.
5. The alternative analysis used 10 criteria and weighed each differently, ranging from 10 to 1. Wetlands was listed as 5<sup>th</sup> in the criteria under this review. The purpose of this alternative site analysis review is a requirement of the Clean Water Act Section 404 (b)(1) Guidelines. Therefore, wetland criteria under review should have been near the top of the criteria used for this analysis.
6. The size of each site reviewed in the alternative analysis was partially determined by the range density of residential units, which is between 260 to 350 units. The proposed project range density of residential units is between 111 and 131. The EPA believes the applicant needs to reevaluate alternative sites that meet the project purpose of 111 to 131 residential units.
7. In general, the EPA would be most favorable if development was limited to the site west of Shell Point Road.